

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

78.

OA 1774/2022 with MA 4888/2023

Sgt Govind Kumar Saxena (Retd)		Applicant
Versus		
Union of India & Ors.		Respondents

For Applicant	:	Mr. Raj Kumar, Advocate
For Respondents	:	Mr. Y P Singh, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

O R D E R
15.01.2024

MA 4888/2023

Counter affidavit has been filed. There being some delay in filing the counter affidavit, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

MA stands disposed of.

OA 1774/2022

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application and the reliefs claimed in para 8 read as under:

- (a) Quash and set aside the RMB proceedings and Impugned Order to the extent they deny the grant of disability element of pension to the applicant.

- (b) Direct the respondents to grant the disability element of pension @ 30% broad-banded to 50% with interest @ 12% p.a. wef date of discharge, by treating the disabilities as attributable to and/or aggravated by military service.
- (c) To pass any other Order(s) or/and direction(s) in favour of the Applicant which may deem just and proper under the facts and circumstances of the case in the interest of justice.

2. Even though the applicant is found to be suffering from the following two ailments viz, (i) Dyslipidemia (ii) Primary Hypertension and the composite disability for the two ailments have been assessed at 30%, during the course of hearing today, learned counsel for the applicant made a fair statement that for the present in this application, the applicant would only be praying for disability pension pertaining to one ailment i.e. Primary Hypertension and he gives up his claim for other ailment. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records.

3. Keeping in view the consistent stand taken by this Tribunal based on the law laid down by the Hon'ble Supreme Court in the case of Dharamvir Singh v. Union of India and others (2013) 7

SCC 316 that Primary Hypertension may arise even in a peace area due to stress and strain of service, we see no reason not to allow the prayer of the applicant with regard to the disability Primary Hypertension, which has been assessed by the competent Medical Board @ 30%.

4. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% with effect from the date of his discharge.

5. All other claims stand rejected.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)

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