

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

58.

OA 2291/2023 with MA 1360/2024 & 3256/2023

Ex Nk/NA NC Biswal Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Shyam Narayan, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
26.09.2024

MA 3256/2023

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648), the delay in filing the OA is condoned.

MA stands disposed of:

MA 1360/2024

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

OA 2291/2023

3. 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. To direct the Respondents to bring all service and medical records of the Applicant, including the RMB.
- b. To set aside the Rejection letter dated 28.11.2010 and Rejection letter dated 11.04.2023
- c. To grant disability pension to the Applicant from the date of release i.e. 01.08.2006.
- d. To direct the Respondents to grant broad banding of the disability pension w.e.f. 01.08.2006.
- e. To direct the Respondents to issue a corrigendum PPO pertaining to the disability pension and broad banding of the disability pension of the Applicant.
- f. To direct the Respondents to pay arrears of disability pension and broad banded disability pension along with interest @ 12% from the date of discharge i.e. 01.08.2006.
- g. To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.

4. The applicant was enrolled in the Indian Army on 18.03.1986 and released on 31.07.2006. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% for life as is evident from the medical records.

5. 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 Release Medical Board @ 30%.

6. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% which be rounded off to 50% for life from the date of discharge i.e., 31.07.2006 in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012) decided on 10.12.2014. However, as the applicant has approached the Tribunal after a considerable delay, the arrears be restricted to three years prior to the date of filing of OA i.e. 24.07.2023.

7. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of copy of this order, failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

8. No order as to costs.

9. Pending miscellaneous application, if any, stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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