

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

97.

OA 2600/2023 WITH MA 1857/2024
AND MA 3665/2023

JWO Anand Kumar (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Nawneet Krishna Mishra, Advocate
For Respondents : Mr. R.S. Chhillar, Advocate

CORAM :

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

ORDER
04.10.2024

MA 3665/2023

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay in filing the present OA. In view of the judgment of the Hon'ble Supreme Court in the matter of Union of India and Ors. Vs. Tarsem Singh [2009 (1) AISLJ 371] and the reasons mentioned in the application, the delay in filing the OA is condoned.

2. The MA is disposed of accordingly.

MA 1857/2024

3. 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.

4. MA stands disposed of.

5. 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 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) *To direct the respondents to grant the disability element of pension @ 30% broad banded to 50% with interest @ 12% p.a. w.e.f. date of discharge, by treating the disabilities as attributable to and/or aggravated by military service."*

6. The applicant was enrolled in the Indian Air Force on 12.01.1993 and discharged from Service on 31.01.2019. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records. The composite disability for the ailment has been assessed at 30% for life.

7. 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 Vs. 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%.

8. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement 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, the arrears will be restricted to three years from the date of filing of this OA or the date of applicant's retirement/discharge, whichever is lesser, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

9. 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.

10. No order as to costs.

11. Pending miscellaneous application, if any, stands closed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

/vks/