

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

106.

OA 2964/2023 WITH MA 4138/2023

HFL Pradeep Kumar (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Tatsat Shukla, Advocate
For Respondents : Mr. Arvind Kumar, Advocate

CORAM :

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

ORDER
25.9.2024

MA 4138/2023

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. The MA is disposed of accordingly.

OA 2964/2023

2. 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 applicant's RMB proceedings to the extent the order denies grant of disability element of pension to the applicant.*

(b) *To set aside the impugned order and direct the respondents to grant the disability element of pension @30% broad banded to 50% along with all consequential benefits with arrears and interest @12% p.a. w.e.f date of discharge by treating disease as attributable to and aggravated by military service in view of the Hon'ble Apex Court judgment in Rajbir Singh (Supra) and Dharamvir Singh (Supra), or*

3. The applicant was enrolled in the Indian Air Force on 26.08.1975 and discharged from service on 30.09.2013. 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 also been assessed at 30%.

4. 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, assessed by the competent Medical Board @ 30%.

5. Accordingly, we allow this OA and direct the respondents:

- (i) 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 and Ors. 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].

- (ii) 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.

6. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

/vks/