

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

OA 3056/2022 WITH MA 4273/2022

HFO (MWO) Rajendra Prasad Swami (Retd) ... Applicant  
Versus  
Union of India & Ors. ... Respondents

For Applicant : Mr. Prabhakar Mani Tiwari and  
Mr. Manoj Kumar Gupta, Advocates  
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

CORAM :  
HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE LT GEN CP MOHANTY, MEMBER (A)

ORDER

MA 4273/2022

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 (2009(1) AISLJ 371), the delay in filing the OA is condoned.

MA stands disposed of.

OA 3056/2022

2. Invoking the jurisdiction of this Tribunal; under Section 11, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

- (a) *To direct the respondents to declare the disabilities of the applicant, i.e., Primary Hypertension as attributable to or aggravated by military services and grant the disability element of the disability pension to the*

*applicant w.e.f. the date of discharge from the service @30% broad banded to 50% for life in view of the Hon'ble Apex Court judgement in Rajbir Singh (Supra), Ram Avtar (Supra).*

*(b) To direct the respondents to set aside the impugned Orders and pay the arrears arises out of such grant, if any, on disability element of the disability pension with interest @10% p.a. with effect from the next day of the date of retirement till the date of execution of order with all the consequential benefits.*

3. The applicant was enrolled in the Indian Air Force on 16.01.1985 and discharged from Air Force Service on 28.02.2021. 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%.

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, which has been assessed by the competent Medical Board @ 30%.

5. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 28.02.2021 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.

6. 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.

7. No order as to costs.

8. Miscellaneous application, if any, pending stands closed.

Pronounced in the open Court on 14 day of May, 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

Ps