

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

56.

OA 3442/2023 WITH MA 4653/2023

Sgt Repaka Gopal (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Kritendra Tiwari, Advocate  
For Respondents : Mr. Avdhesh Kr. Singh, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER  
11.12.2024

MA 4653/2023

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. MA stands disposed of.

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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) *Quash and set aside the impugned letter dated 29 Jul 2016, 07 Dec 2018 and 04 Nov 2020.*

- (b) *Direct respondents to grant disability pension @50% after rounding off from 30% for life to the applicant with effect from 01 Aug 2016, i.e., the next date of discharge from service within interest @ 12% p.a. till final payment is made.*
- (c) *Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case."*

3. The applicant was enrolled in the Indian Air Force on 17.07.1996 and discharged from Service on 31.07.2016. 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.

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%. The onset of the ailment as per medical records is stated to be in the year April 2014 while the applicant was posted at Pune. The weight chart of the applicant, produced by the respondents, three years prior to the onset of the ailment, shows that his weight has always been within the permissible limit.

5. 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].

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. Pending miscellaneous(s) application, if any, stands closed.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[RASHKA CHAUBE]  
MEMBER (A)

/vks/