

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

78.

OA 3720/2023 with MA 2859/2024

Sgt Krishna Kumar Diwedi (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Tatsat Shukla and
Mr. Dhiraj Kumar, Advocate
For Respondents : Mr. Sudhir Kumar, Advocate

CORAM

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

ORDER
26.09.2024

MA 2859/2024

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

2. OA 3720/2023

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 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 Rajb Singh (Supra) & Dharamvir Singh (Supra), or

(b) To pass such orders, direction/directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.

3. The applicant was enrolled in the Indian Air Force on 09.12.1999 and discharged on 31.12.2022. 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.

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 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%.

5. Accordingly, we partially 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 retirement i.e., 31.12.2022 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. Pending miscellaneous application, if any, stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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