

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

123.

OA 4087/2023 with MA 2863/2024 & 5380/2023

Ex Nb Sub Dori Lal

.....

Applicant

Versus

Union of India & Ors.

.....

Respondents

For Applicant : Mr. Ved Prakash & Devendra Kumar,
Advocate

For Respondents : Mr. D.K. Sabat, Advocate

CORAM

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

ORDER

15.10.2024

MA 5380/2023

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 [(2008) 8 SCC 648), the delay in filing the OA is condoned. MA stands disposed of.

MA 2863/2024

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

3. OA 4087/2023

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. *Quash Impugned order Impugned order No. Pen/D/1406/R dated 13.09.2022.*
- b. *Direct the respondents to grant disability element of pension to the applicant duly rounded off to 50% w.e.f. his date of discharge*
- c. *To direct the respondents to pay the due arrears of disability element of Pension with interest @ 12% p.a. from the date of retirement with all the consequential benefits.*
- d. *Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents..*

4. The applicant was enrolled in the Indian Army on 28.08.1996 and released on 30.03.2023. 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.

5. 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%.

6. 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 release i.e., 30.03.2023 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.

7. 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.

8. No order as to costs.

9. Pending miscellaneous application, if any, stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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