

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

119.

OA 757/2024 WITH MA 1565/2024

Ex Sub Sardeep Kumar	Applicant
Versus		
Union of India & Ors.	Respondents
For Applicant	:	Mr. Ved Prakash, Advocate
For Respondents	:	Mr. K.K. Tyagi, Sr. CGSC

CORAM :

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

ORDER
04.10.2024

MA 1565/2024

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

OA 757/2024

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 the impugned order No.JC571505H/DP dated 15.04.2023 and impugned letter No. No.JC571505H/DP(Rej) dated 01.02.2023.*
- (b) *Direct the respondents to grant disability element of pension to the applicant duly round off to 50% w.e.f. his date of discharge.*

(c) *Direct respondents to pay the due arrears of disability element of pension with interest @ 12% p.a. from the date of retirement with all consequential benefits.*

3. The applicant was enrolled in the Indian Army on 01.02.1995 and discharged from Service on 31.01.2023. 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%.

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 application, if any, stands closed. 

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

/vks/