

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

OA 869/2023
with
MA 1361/2023

Hon Capt (Sub Maj) Bharat Singh (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC

CORAM

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

ORDER

MA 1361/2023

Keeping in view the averments made in this application and finding the same to be bona fide, in the light of the decision in the case of Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648], the instant application is allowed condoning the delay in filing the OA.

2. The MA stands disposed of.

OA 333/2023

3. 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 direct the respondents to grant disability element of pension to the applicant by setting aside the impugned order with broad banding benefit by rounding off from 30% to 50%; by treating his disability as attributable to and aggravated from the Military service in terms of judgments of Apex Court in Rajbir Singh & Ors and Dharamvir Singh (Supra) referred in identical order placed as Annex-A4; and/or

“(b) To direct the respondents to pay due arrears of disability pension with interest @10% p.a. with effect from the date of retirement with all the consequential benefits; and/or.”

4. The applicant was enrolled into the Indian Army on 28.02.1985 and discharged from service on 31.12.2018. The applicant was examined by a duly constituted RMB on 03.09.2018 which held his disability of Primary Hypertension @ 30% for life while it was held that the disability was neither attributable to nor aggravated by military service. 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. The composite disability for the ailment has been assessed at 30% for life.

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 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%.

6. The respondents are directed to grant disability element of pension to the applicant for the disability of Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement, i.e., 31.12.2018, 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 in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648].

7. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension for the disability of Primary Hypertension @ 30% for life rounded off to 50% for life and direct the respondents 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(s), if any, stands closed.

Pronounced in open Court on this 14 day of October, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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