

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

42.

OA 1007/2023 with MA 1587/2023 & 3460/2024

Ex MWO (HFO) Dashrath Singh ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Ajit Kakkar, Advocate  
For Respondents : Mr. Avdhesh Kumar Singh, Advocate

CORAM

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

ORDER  
26.09.2024

MA 1587/2023

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 3460/2024

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 1007/2023

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 direct the respondents to bring all service and medical documents including the RMB on record with advance copy to the applicant.*
- b. *To grant disability pension to the Applicant from the date of Release (30.11.2006) w.e.f. 01.12.2006.*
- c. *To conduct RSMB of the Applicant in order to assess the correct disabilities in respect of the Applicant.*
- d. *To direct the Respondents to grant broad banding of the disability pension in lieu of the disabilities that the applicant suffered w.e.f. 01.12.2006.*
- e. *To direct the Respondents to issue a corrigendum PPO pertaining to the disability pension and broad banding of the disability pension of the Applicant.*
- f. *To direct the Respondents to pay arrears of disability pension and broad banded disability pension along with interest @ 12% w.e.f. 01.12.2006.*
- g. *To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper..*

4. The applicant was enrolled in the Indian Air Force on 05.08.1967 and released on 30.11.2006. During the course of hearing, learned counsel for the applicant made a fair statement that in this application, the applicant would only be praying for disability pension pertaining to one ailment, i.e. Primary Hypertension and he gives up his claim for other ailment. 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., 31.11.2006 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, as the applicant has approached the Tribunal after a considerable delay, the arrears be restricted to three years prior to the date of filing of OA i.e. 11.04.2023.

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

  
[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

/kt/