

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

OA 1089/2020

Durga Devi widow of (deceased) Applicant
HFL Vijay Kumar Singh (Retd)
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate

For Respondents : Dr. V.S. Mahndiyan, Advocate

CORAM

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

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007) this application has been filed and the reliefs claimed in Para 8 read as under:

“(a) To direct the respondents to grant the disability pension @30% broad banded to 50% for life in view of the Hon'ble Apex Court Judgment in Dharmavir Singh (Supra) and Rajbir Singh (Supra) by treating the disabilities as attributable and aggravated to military service.

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

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

2. The late soldier in this OA was enrolled into the Indian Air Force on 07.01.1971 and discharged from service

on **30.09.2008** after rendering total 37 years and 268 days of regular service. As per counter affidavit, the late soldier was examined by a duly constituted RMB on 15.10.2007 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% as is evident from the medical records. The composite disability for the ailment has been assessed @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 soldier @ 30% for the disability of Primary Hypertension for life which be rounded off to 50% for life from the date of retirement, i.e., **30.09.2008**, 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 and subsequent consequential benefits to the wife of the soldier, i.e. the applicant However, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649] the arrears shall be restricted to three years prior to the date of filing of OA. [Date of filing of OA: 05.08.2020].

7. Accordingly, we allow this application 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 18 day of October, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps

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