

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

98.

OA 1094/2023

Nk Dilwar Singh (Retd)

..... Applicant

Versus

Union of India & Ors.

..... Respondents

For Applicant : Mr. Nawneet Krishna Mishra, Advocate

For Respondents : Mr. Satya Ranjan Swain, Advocate

CORAM

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

ORDER
28.03.2024

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 Quash and set aside the RMB proceedings and impugned Order to the extent they deny the grant of disability element of pension to the applicant.

(b) To direct the respondents to grant the disability element of pension @30% broad banded to 50% with interest @12% p.a. wef date of discharge, by treating the disabilities as attributable to and or aggravated by military service.

2. The applicant was enrolled in the Indian Army on 06.10.2003 and discharged on 31.08.2022. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records.

3. 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 competent Medical Board @ 30%. In so far as the second disability viz. Polycythemia (ICD-D-5) @10%, is concerned, since it has been assessed less than 20%, it does not fulfill the twin criteria as per provisions of Regulation 81 of the Pension Regulations for the Army, 2008 (Part-I), and hence is not admissible.

4. Accordingly, we partially 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 retirement i.e., 31.08.2022 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.

5. 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.

6. No order as to costs.

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

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

Ps
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