

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

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OA 1119/2023 with MA 1724/2023

Rfn Kump Singh (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Nawneet Krishna Mishra, Advocate
For Respondents : Ms. Barkha Babbar, Advocate

CORAM

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

ORDER
22.07.2024

Vide our orders of even date, we have allowed the OA. Faced with the situation, learned counsel for the respondents makes an oral prayer for grant of leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007, to the Hon'ble Supreme Court. We find no question of law much less any question of law of general public importance involved in the matter to grant leave to appeal. Hence, the prayer for grant of leave to appeal is declined.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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Ms. Dipanjali Tyagi, Advocate

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ORDER

MA 1724/2023

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

OA 1119/2023

2. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, 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.

(c) To pass such Order(s) or/and direction(s) in favour of the Applicant which may deem just and proper under the facts and circumstances of the case in the interest of justice.”

3. In this case, the applicant was enrolled in **Indian Army** on 3rd February, 2003 and was discharged from service on 29th February, 2020. The Release Medical Board dated 8th January, 2020 found him fit to be released from service in low medical category P2(P) for the disability of Primary Hypertension.

4. 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 competent Medical Board @ 30% for life.

6. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension for the

disability of Primary Hypertension @ 30% rounded off to 50% for life with effect from the date of his discharge.

7. The respondents are directed to grant disability element of pension for the disability of Primary Hypertension 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 prior to the date of filing of this OA i.e. 20.04.2023, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

8. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant. The arrears shall be disbursed to the applicant within four months from the date of receipt of a copy of this order, failing which, these shall carry interest @ 6% per annum till the date of payment.

9. No order as to costs.

Pronounced in the open Court on this 22 day of July, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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