

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

103.

OA 1150/2023

Capt (TS) Ashish Chopra (Retd) ... Applicant
Versus ... Respondents
Union of India &Ors.

For Applicant : Mr. Shakti Chand Jaidwal, Advocate
For Respondents : Mr. Anil Kumar Gautam, Sr. CGSC

CORAM :

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

ORDER
29.05.2024

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) *Set aside the impugned order dated 29 March, 2023 passed by the respondents, rejecting second and final appeal of the applicant for grant of disability pension by considering his disabilities as NANA.*
- (b) *Direct the respondents to treat both disabilities of the applicant, namely, (i) Primary Hypertension and (ii) Dyslipidemia as attributable to / aggravated by stress and strain of Naval Service.*
- (c) *Direct the respondents to grant disability pension to the applicant @33.5% for life w.e.f. 01.11.2022, as degree of his disablement has been assessed composite @33.5% for life by the RMB.*
- (d) *Direct the respondents to pay disability pension to the applicant at enhanced rate @50% for life w.e.f. 01.11.2022 by broad-*

banding his disabilities to 50% as per Govt. Policy dated 31.01.2001.

(e) Direct the respondnes to pay to the applicant an interest @10% p.a. on arrears of the disability pension w.e.f. 01.11.2022.

2. The applicant was commissioned in the Indian Navy on 11.02.1991 and discharged from Navy Service on 31.10.2022. The applicant is found to be suffering from the two ailments viz, (i) Primary Hypertension assessed @ 30% for life and (ii) Dyslipidemia assessed @ 5% for life. The composite disability for the two ailments has been assessed at 33.5% for life. Since, the second disability, i.e., Dyslipidemia @ 5% for life has been assessed less than 20%, it does not fulfill the twin criteria as per Regulations 28 of Navy Pension Regulations, 1964 and hence is not admissible.

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%.

4. 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 retirement, i.e., 31.10.2022 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 closed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps
OA 1150/2023