

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

OA 1161/2023

Sub Aravendra Kumar (Retd) Applicant
Versus
Union of India & Ors. Respondents
For Applicant : Mr. Kritendra Tiwari, Advocates
For Respondents : Mr. R.S. Chillar, 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, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

- (a) *Quash and set aside the impugned letters dated 29.10.2022 and 18.03.2023.*
- (b) *Direct respondents to grant disability pension @50% after rounding off from 33.5 for life as recommended by RMB to the applicant with effect from 01 Nov 2022 i.e. after date of discharge from service with interest @12% p.a. till final payment is made.*

2. The applicant was enrolled in the Indian Army on 03.10.1994 and discharged on 31.10.2022. 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 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 Release Medical Board @ 30%. In so far as the second disability viz. Dyslipidemia @ 5%. Since the second disability has been assessed less than 20%, it does not fulfill the twin criteria as per Para 53 of Pension Regulation for the Army, 2008 (Part-1) 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., **31.10.2022** 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
Pronounced in the open Court on 08 day of August, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps