

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

OA 1170/2017 WITH MA 867/2017

Wg Cdr Surjit Singh (Retd.) ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. Ajai Bhalla, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC

CORAM :

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

ORDER

MA 867/2017

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648), the delay in filing the OA is condoned.

2. MA stands disposed of.

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3. Invoking the jurisdiction of this Tribunal under Section 14, the applicant has filed this application seeking grant of disability pension.

4. The applicant was commissioned in the Indian Air Force on 21.12.1963 and prematurely retired from service on 31.07.1991. The applicant submits that for the purpose of

disabilities: - (i) IHD @15-19% and (ii) Ist Degree Heart Block @6-10% , with composite being assessed @ 15-19% as is evident from the medical records.

5. As far as assessment for IHD is concerned, we find that the as per Guide to Medical Officers, 2002 (as amended in 2008), the minimum assessment for IHD has to be assessed @30% when there are no symptoms and or symptoms brought on only by strenuous activity and/or no or mild ischaemia and/or normal LV function. Thus, the assessment for IHD of the applicant has to be assessed @30%.

6. 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 wherein it is clearly spelt out that any disease contracted during service is presumed to be attributable to military service, if there is no record of any ailment at the time of enrolment into the military Service, we see no reason not to allow the prayer of the applicant with regard to the aforesaid disability.

7. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 30% for life [For IHD @30%] which be rounded off to 50% for life from the date of retirement i.e. 31.07.1991


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 shall be restricted to three years prior to the date of filing of OA (13.07.2017) keeping in view 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 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.

9. No order as to costs.

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

Pronounced in the open Court on 13 day of September, 2024.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Akc