

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

116.

OA 1190/2020

HFO Ram Shekher Shukla (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Manoj Kr Gupta, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

CORAM

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

ORDER
27.09.2024

OA 1190/2020

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 direct the respondents to grant the disability pension @30% broad banded to 50% for life in view of the Hon'ble Apex Court Judgment in Dharamvir Singh (Supra) and Rajbir Singh (Supra) by treating the disabilities as attributable and aggravated to Military service.

(b) To direct the respondents to pay the due arrears of disability pension with interest @ 10% p.a. with effect from the date of retirement with all the consequential benefits, or

(c) To pass such further order or order, direction/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with Law.”

2. In this case, the applicant was enrolled in Indian Air Force on 17th May, 1976 and was discharged from service on 31st July, 2013. The Release Medical Board

dated 23rd August, 2012 found him fit to be released from service in low medical category P2(P) for the disability of Primary Hypertension.

3. 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.

4. 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.

5. 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.

6. 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. 11th August, 2020, in keeping with the law laid down in the case of *Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649]*.

7. 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.

8. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Priya