

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

63.

OA 1192/2023 with MA 1229/2024

WO Anil Kumar Rdo/Fit (Retd)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant : Mr. Rakesh Kumar Yadav, Advocate

For Respondents : Mr. Sudhir Kumar, Advocate

CORAM

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

ORDER
24.04.2024

MA 1229/2024

For the averments made in the application, delay in filing the counter affidavit is condoned. Counter affidavit is taken on record. MA stands disposed of.

OA 1192/2023

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 set aside the impugned order of the Respondent vide letter No. Air HQ/99798/1/715992/01/22/DAC (DP/RMB) dated 18 Oct 2022. Rejecting Disability Pension, stating that Disability of the Applicant is

neither attributable to nor aggravated by Military Service.

(ii) to issue necessary orders to the Respondents to consider the application of Disability Pension to the Applicant herein to 50% for life (Broad Banding from 30% for life), which happened him during and while performing service exigencies and has casual connections to the Military Service and wholly attributed to service, in terms of Regulation for the IAF 1961.

(iii) to consider the facts and circumstances of the case in the light of above discussed Rules and Regulations as well as settled principles of law enshrined by the Hon'ble Supreme Court in Dharmavir Singh Vs. Union of India & Ors. (supra) and reiterated in Union of India & Anr. Vs Rajbir Singh (supra) and Union of India Vs Angad Singh Titaria and award disability pension to the Applicant to 50% for life, after broad banding from 30% disability from the date of his discharge i.e. 31 Jan 2022, along with 10% p.a. interest on the arrears.

(iv) to award Rs. 50,000 towards cost of litigation, mental agony and harassment to the Applicant.

(v) to pass such other order/orders as this Hon'ble Tribunal may deem fit just & equitable in the facts and circumstances of the case."

3. In this case, the applicant was enrolled in Indian Air Force on 12th June, 1986 and on completion of service was discharged on 31st January, 2022. The Release Medical Board dated 10th May, 2021 found him fit to be released

from service in LMC A4G2 (Permanent) for 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 @ 30% rounded off to 50% for life with effect from the date of his discharge. All other claims stand rejected.

7. The respondents are directed to grant disability element of pension 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.

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.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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