

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

44.

OA 1371/2019 with MA 2113/2019

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

For Applicant	:	Mr. OS Punia, Advocate
For Respondents	:	Mr. Satya Ranjan Swain, Advocate

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

ORDER
13.02.2024

MA 2113/2019

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in **Union of India and others** Vs. **Tarsem Singh** (2008) 8 SCC 648, the same is allowed condoning the delay in filing the O.A.

MA stands disposed of.

OA 1371/2019

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 regarding initial rejection of disability pension claim (copy not supplied to applicant) and letter No. PN/7062/DP/13 dated 09.07 2019 regarding rejection of first appeal, and direct the respondents to consider the disabilities of the applicant as attributable to and aggravated by service as well as consider the net assessment qualifying for disability pension from Nil for life to 30% for life;
- (b) Direct the respondents to give the benefits of rounding off of disability element from 30% for life to @ 50% for life and grant disability pension w.e.f. 1.8.2013 @ 50% for life in the light of law laid down by Hon'ble Supreme Court along with interest @ 12% per annum along with all consequential benefits; and
- (c) To award any other other/further relief which this Hon'ble Tribunal may deem fit and proper in th facts an circumstances of the case along

with cost of the application in favour of the applicant and against the respondents.

2. Even though the applicant is found to be suffering from the following ailments (i) Primary Hypertension (ii) Sinus Bradycardia, during the course of hearing today, learned counsel for the applicant made a fair statement that for the present in this application, the applicant would only be praying for disability pension pertaining to one ailment i.e. Primary Hypertension and he gives up his claim for all other ailments. 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 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 holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% with effect from the date of his discharge. All other claims stand rejected.

5. 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. However, the arrears will be restricted to three years from the date of filing of this OA or the date of applicant's retirement/discharge, whichever is lesser, in keeping with the law laid down in the case of **Union of India and others Vs. Tarsem Singh** [2008 (8)SCC 649].

6. 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.

7. Pending MAs, if any, stand closed. There is no order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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