

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

OA 1416/2021

MWO Surendra Kumar (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ramniwas Bansal, Advocate
For Respondents : Mr. S.R. Swain, 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) *To quash and set aside the applicant's RMB proceedings to the extent the order denies grant of Disability pension to the applicant.*
- (b) *To direct the respondents to set aside the impugned order and direct the respondents to grant the disability pension @30% broad-banded to 50% along with arrears & interest @10% p.a. wef date of discharge, by treating diseased as attributable to and aggravated by military service with all consequential benefits, in view of the Hon'ble Apex Court judgement in Rajbir Singh (Supra) and Dharamvir Singh (Supra).*

2. The applicant was enrolled in the Indian Air Force on 15.01.1981 and discharged on 31.08.2020 after

rendering 39 years and 229 days of regular service. 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 Release Medical Board @ 30%.

4. Accordingly, we 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., 31.08.2020 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 28th day of May, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps
OA 1416/2021