

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

81.

OA 146/2023

Col Kuldeep Singh Uppal (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Indra Sen Singh, 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
30.04.2024

OA 146/2023

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) *Set aside the order dated 23.09.2022, whereby the Applicant's claim for disability element of pension has been arbitrarily rejected by the Respondents;*
- (b) *Direct the respondents to treat the Applicant's disability on account of "Primary Hypertension" & "Benign Essential Tremors (G-32)" as aggravated by military service, if not Attributable to military service;*
- (c) *Direct the respondents to pay disability element of pension to the Applicant at the rate of 50% (40% rounded off to 50%) with effect from 31.12.2020 thereby granting the benefit of rounding off/broad-banding policy of the Govt;*
- (d) *Direct the Respondents to pay arrears of disability element of pension, after calculating the same at the rate of 50% with effect from 31.12.2020, with interest at the rate of 10% per annum until the date of actual payment; and*
- (e) *Issue such other order(s) direction(s) as may be deemed appropriate in the facts and circumstances of the case.*

2. Even though the applicant is found to be suffering from the following two ailments viz, (i) Primary Hypertension and (ii) Benign Essential Tremors (G-32) and the composite disability for the two ailments have been assessed at 40%.

3. 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 other ailment. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% 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%.

5. 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 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.

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. No order as to costs.
8. Pending miscellaneous application, if any, stands disposed of.
9. All other claims stand rejected.

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[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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