

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

101.

OA 1469/2019

Ex SGT Shiv Prakasham
Versus
Union of India & Ors.

..... Applicant
..... Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
Ms. Eti, Advocate
Mr. Aman, Advocate
For Respondents : Dr. Vijendra Singh Mahndiyan, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
21.03.2024

OA 1469/2019

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 direct the Respondent to produce all medical records of the applicant.
- b. To direct the Respondent to grant disability pension to the Applicant from the date of discharge that is 01.01.2019.
- c. To direct the respondent to grant the benefit of rounding off the disability pension from 30% to 50% from the date of discharge.

- d. To direct the respondents to issue a corrigendum PPO with the necessary changes pertaining to the disability and broad banding of the disability pension.
- e. To direct the respondents to pay arrears of disability pension and broad banded disability pension along with interest @ 12%.
- d. To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.”

2. 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% for life with effect from the date of his discharge.

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.

6. 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.

7. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

Priya