

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

72.

OA 151/2023 WITH MA 2377/2024

Ex WO Pradip Sil Applicant
Versus
Union of India & Ors. Respondents
For Applicant : Mr. Omprakash Kr Srivastaya, 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
31.05.2024

MA 2377/2024

Counter affidavit has been filed. There being some delay in filing the counter affidavit, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

2. MA stands disposed of.

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3. Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

- (a) *To direct the respondents to issue the disability pension PPO to the applicant from the date of discharge, i.e., 31.01.2022.*
- (b) *To direct the respondents to round-off the disability percentage from 30% to 50% and issue the disability pension PPO of the applicant from the date of discharge, i.e., 31.01.2022.*

(c) *To direct the respondents to pay arrears from the date of discharge, i.e., 31.01.2022 along with interest @12% per annum till the realization of the payment to the applicant.*

4. The applicant was enrolled in the Indian Air Force on 08.03.1986 and discharged on 31.01.2022. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% 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 Release Medical Board @ 30%.

6. 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., 31.01.2022 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.

7. 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.

8. No order as to costs.

9. Pending miscellaneous application, if any, stands closed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps