

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

109.

OA 1517/2018 WITH MA 1583/2018

Maj T S Rawat (Retd)

..... Applicant

Versus

Union of India & Ors.

..... Respondents

For Applicant : Mr. R K Tripathi, Advocate

For Respondents : Mr. Satya Ranjan Swain, Advocate

CORAM

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

ORDER
20.03.2024

MA 1583/2018

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh (2009(1) AISLJ 371), the delay in filing the OA is condoned.

2. MA stands disposed of.

OA 1517/2018

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 call for the records of all the Medical Board proceedings for your lordships' perusal.

(b) To call aside the orders of the Ministry of Defence, Govt of India.

(c) To declare the disability suffered by the applicant to be attributable or aggravated by the military service.

(d) To direct the respondents to pay the applicant the disability pension @50% for life in view of Hon'ble Supreme Court Judgments in *Dharambir Singh vs Union of India Vs Ram Avtar*, Civil Appeal No. 418/2012 dated 10.12.2014 with effect from the date of his retirement, i.e., 31st August, 1997, in terms of Hon'ble Supreme Court order in *Davinder Singh vs. Union of India & Ors.* Civil Appeal No. 9946.2016 dated 20th September, 2016.

(e) To direct the respondents to pay the arrears of disability pension with 18% interest with effect from the next day of release of the applicant.

4. The applicant was enrolled in the Indian Army as a soldier on 10.03.1960, later commissioned as SL Commission Officer in the Indian Army on 24.07.1978 and discharged from Army Service on 31.07.1996. The applicant submits that for the purpose of Essential Hypertension, the disability has been assessed @ 20% for life as is evident from the medical records while the disability has been noted to be neither attributable nor aggravated by military service.

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 Essential 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 Essential Hypertension, which has been assessed by the competent Medical Board @ 20%.

6. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Essential Hypertension @ 20% for life which be rounded off to 50% for life from the date of retirement i.e., 31.07.1996 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 i.e. 15.09.2018, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

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 disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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