

ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

C..

OA 161/2019

Ex NC (E) Chhatar Singh ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Ajit Kakkar, Advocate  
For Respondents : Mr. Y P Singh, Advocate

CORAM

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

ORDER  
29.02.2024

Vide our detailed order of even date, we have allowed the main OA No.161/2019. Faced with this situation, learned counsel for the respondents makes an oral prayer for grant of leave for impugning the order to the Hon'ble Supreme Court in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007.

After hearing learned counsel for the respondents and going through our order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order, therefore prayer for grant of leave to appeal stands dismissed.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

COURT NO. 1  
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ORDER

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application seeking grant of disability pension.

2. The applicant was enrolled in the Indian Air Force on 13.01.1988 and discharged from service on 31.01.2017. The applicant submits that at the time of his discharge, he has been suffering from three disabilities - (i) Lumbar Spondylosis @ 20% (ii) Cataract Both eyes (Optd.) @20% and (iii) Primary Hypertension @30% as is evident from the medical records. The composite disability for the ailment has been assessed at 60%. It is evident from the documents placed on record that the claim for first appeal with respect to disability (i) Lumbar Spondylosis @ 20% has been accepted vide letter dated 12.12.2019 and the

applicant has been granted disability pension @20% rounded off to 50%.

3. With respect to second disability, we find it pertinent to refer to Para 13, Chapter VI, Guide to Medical Officers (Military Pensions), 2008 stating to the effect:

*"13. Cataract. Cataract is primarily due to degenerative changes in the lens causing defective vision.*

*The causes of cataract are many :-*

*(a) Senile cataract*

*(b) Metabolic disease - Diabetes mellitus Hypocalcaemia Galactosemia*

*(c) Trauma - Direct penetrating injury Eye Concussion  
Ionizing radiation (Radiographer) Electric shock  
and Lightning Prolonged exposure to UV Light  
(for decades)*

*(d) Complicated cataract - Secondary to uveitis Chroiditis High myopia  
Glaucoma*

*(e) Drugs - Steroids, chlorpromazine, amiodarone*

*(f) Complications of atopic dermatitis and psoriasis*

*It is unaffected by conditions of military service in both its onset and course unless the onset or course is brought about or hastened by an ocular injury or infection during service. Senile cataract is not usually affected by service.*

*Attributability is conceded when the cataract is secondary to trauma related to service, infection, post drug therapy and unforeseen complication to surgery.*

*In diabetic cataract, entitlement depends whether diabetes itself is brought about by service, in such cases aggravation will be conceded."*

4. On a perusal of aforesaid provision of GMO, 2008, and comparative analysis of the medical records of the applicant placed on record, we find that attributability can be awarded in case of any link with trauma related to service, infection, post drug therapy and unforeseen complication to surgery, which is not present in this case. Furthermore, as far as aggravation is considered, we find that throughout his service, the applicant

was posted in a peace area, and there is no link of any aggravation on the eyes, whatsoever, in a peace area.

5. We find that the applicant underwent surgery of the cataract as well, but the same remained uncured fully, however, the same seems to be a medical condition, as the surgery was uneventful, with the applicant responding to the same as comfortably recovering, as is evident from the medical records and thus, having no linkage with the service whatsoever.

6. With respect to the disability (iii), 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 wherein it is clearly spelt out that any disease contracted during service is presumed to be attributable to military service, if there is no record of any ailment at the time of enrollment into the military Service, we see no reason not to allow the prayer of the applicant with regard to the aforesaid disability.

7. Accordingly, we partially allow this application and direct the respondents to grant disability element of pension to the applicant @ 50% for life [Lumbar Spondylosis @20% + Primary Hypertension @ 30% - Both being distinct disabilities] which be rounded off to 75% for life from the date of retirement

i.e., 31.01.2017 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.

8. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the substituted legal representative of the applicant within four months from the date of receipt of copy of this order, along with all consequential benefits, failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

9. No order as to costs.

Pronounced in the open Court on the <sup>29</sup> day of February, 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

Ps  
OA 161/2019