

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

67.

OA 1689/2023

Ex Hav Kamal Jeet Singh Tanwar Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ved Prakash, Advocate
For Respondents : Mr. V Pattabhi Ram, Advocate

CORAM

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

ORDER
08.07.2024

OA 1689/2023

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) Quash Impugned order No. P/15706957N/Rejection/DP-1/NER dated 30.05.2022.

(b) Direct the respondents to grant disability element of pension to the applicant duly round off to 50% w.e.f his date of discharge.

(c) Direct respondents to pay the due arrears of disability element of Pension with interest @12% p.a from the date of retirement with all the consequential benefits.

(d) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents.”

2. The applicant was enrolled into the Indian Army on 21.12.2006 and discharged from service on 31.05.2022.

The applicant was examined by a duly constituted RMB on 07.03.2022, which held his disability of Primary Hypertension @ 30% for life and it was held that the disability was neither attributable to nor aggravated by service. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records. The composite disability for the ailment has been assessed at 30%.

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 Vs. 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% for life.

4. The respondents are directed to grant disability element of pension for the disability of Primary Hypertension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement, i.e., 31.05.2022, 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.

5. Accordingly, we allow this OA holding that the applicant is entitled to disability element of pension @ 30% for the disability of Primary Hypertension rounded off to 50% for life and direct the respondents to calculate, sanction and issue corrigendum 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.

6. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

Neha