

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

123.

OA 1697/2021

HFO Banshidhar Gairola (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ramniwas Bansal, Advocate
For Respondents : Dr. Vijendra Singh Mahndiyani, Advocate

CORAM

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

ORDER
21.05.2024

OA 1697/2021

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 quash and set aside the Applicant’s RMB proceedings to the extent the order denies the grant of Disability Pension to the applicant.

(b) TO direct the respondents to set aside the impugned order and direct the respondents to grant the disability pension @ 30% broad-banded to 50% along with arrears & interest @ 10% p.a. wef. date of discharge, by treating disease as attributable to and aggravated by military service, with all consequential benefits in view of the Hon’ble Apex Court Judgment in Rajbir Singh (Supra) and Dharamvir Singh (Supra), or

(c) To pass such orders, direction/directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.”

2. In this case, the applicant was commissioned in **Indian Air Force** in 14th April, 1981 and was superannuated on 31st January, 2021 after completion of service of more than 39 years and 9 months. The Release Medical Board dated 21st February, 2020 found him fit to be released from service in low medical category A4G2(P) for Primary Hypertension.

3. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% for life as is evident from the medical records.

4. 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% for life.

5. 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. All other claims stand rejected.

6. 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.

7. 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.

8. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Priya