

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

89.

OA 1699/2023

Sub (Hony Lt) Rajesh Kumar (Retd) ..... Applicant  
Versus ..... Respondents  
Union of India & Ors.

For Applicant : Mr. Kritendra Tiwari, Advocate  
For Respondents : Ms. Jyotsna Kaushik, Advocate

CORAM

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

ORDER  
19.04.2024

OA 1699/2023

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) *Quash and set aside the impugned letters dated 03 Dec 2022 and 26 Apr 2023.*
- (b) *To direct the respondents to grant the disability Pension @ 50% after rounding off from 30% for life to the applicant with effect from 01 Dec 2022 i.e., the next date of discharge from service with interest @ 12% p.a. till final payment is made.*

2. The applicant was enrolled in the Indian Army on 11.11.1992 and was discharged from Service on 30.11.2022. 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 also 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%.

4. Accordingly, we allow this application and direct the respondents 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, i.e., 30.11.2022 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, the respondents are directed to:

- (i) 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.

6. No order as to costs.
7. Pending MA (s), if any, stands closed.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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