

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

D.

OA 1805/2019

Ex JWO Anil Prasad

..... Applicant

Versus

Union of India & Ors.

..... Respondents

For Applicant : Mr. Ved Prakash, Advocate

For Respondents : Mr. Prabodh Kumar, Advocate

CORAM

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

ORDER
02.04.2024

Vide our orders of even date, we have allowed the OA. Faced with the situation, learned counsel for the respondents makes an oral prayer for grant of leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007, to the Hon'ble Supreme Court. We find no question of law much less any question of law of general public importance involved in the matter to grant leave to appeal. Hence, the prayer for grant of leave to appeal is declined.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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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 17.08.1990 and discharged from service on 31.08.2019. 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 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%.

4. As far as the linkage of smoking and drinking with the attributability of the applicant is concerned, we find that the applicant is a smoker and drinker, but nowhere it has been specified that the applicant is an excessive smoker or an excessive drinker, which could have been the reason for the disability. Furthermore, the issue has been dealt by this Tribunal in OA 1875/2022 titled Sgt Rajesh Kumar v. UoI & Ors. [AFT PB] wherein it was observed that the role of smoking in the development of hypertension, however, is not as well elucidated, and smoking cessation is not routinely included as a recommendation for the prevention or treatment of hypertension.

5. 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. 30.11.2017 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.

6. 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.

7. No order as to costs.

8. Pending miscellaneous application, if any, stands disposed of.

Pronounced in the open Court on this 2 day of April, 2024.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps