

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

K.

OA 1827/2023

WO Dhananjay Kumar (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Tatsat Shukla and
Mr. Dhiraj Kumar, Advocates
For Respondents : Mr. R S Chhillar, Advocate

CORAM

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

ORDER
04.07.2024

Vide our orders of even date, we have allowed the application. 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

[REAR ADMIRAL DHIREN VIG]
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ORDER

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 grant of Disability element of Pension to the applicant.

(b) To set aside the impugned order dated 08 Dec 22 and direct the respondents to grant the disability element of pension @ 44%, broad-banded to 50%, along with all consequential benefits, with arrears and interest @ 12% p.a. w.e.f. date of discharge, by treating disease as attributable to and aggravated by military service, in view of the Hon’ble Apex Court Judgment in Rajbir Singh (Supra) & 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 enrolled in **Indian Air Force** on **31st July, 1985** and was discharged from service on **30th November, 2022** after rendering more than 36 years of

service in low medical category A4G3 (P). The applicant is found to be suffering from the two ailments viz. (i) Primary Hypertension and (ii) Diabetes Mellitus Type-II. The Release Medical Board dated **2nd February, 2022** held his disability (a) Primary Hypertension @ 30% or life and (b) Diabetes Mellitus Type-II @ 20% for life, the composite assessment of disability for the two ailments have been assessed at 44% for life. During the course of hearing today, learned counsel for the applicant made a fair statement that for the present in this application, the applicant would only be pressing for disability element of pension pertaining to one ailment i.e., Primary Hypertension and he gives up his claim for all other ailments.

3. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% 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 for the disability of Primary Hypertension 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.

Pronounced in the open Court on this 4 day of July, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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