

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

85.

OA 1872/2020

Col Rajeev Agarwal (Retd.) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Rajiv Manglik, Advocate
For Respondents : Mr. Neeraj, Sr CGSC

CORAM

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

ORDER
07.05.2024

OA 1872/2020

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 declare the action of the respondents as unjust, arbitrary and illegal; and
- (b) To quash and set aside order dated 24 Jul 2020, 20 May 2019 and 08 Mar 2018; and
- (c) To direct the respondents to grant the disability pension for the disability of 30% as assessed by the Release medical Board and grant the benefit of rounding of disability of the applicant from 30% to 50% in terms of letter dated 31 Jan 2001; and
- (d) To grant an interest of 18% on the arrears; and
- (e) To award exemplary costs upon the Respondents in the facts and circumstances of the record; and

(f) To pass such further order or 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 Army** in **June, 1987** and was granted two years ante date seniority from **13th June, 1985**. On completion of service was discharged on **31st March, 2018**. The Release Medical Board dated **20th November, 2017** found him fit to be released from service in LMC (P2)-Permanent 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.

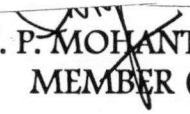
6. The respondents are directed to grant disability element of pension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012) 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/