

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

OA 1903/2018

Ex HFO Kamlesh Kumar ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Virender Singh Kadian, Advocate  
For Respondents : Sqn Ldr A.K. Nauityal, Deptt. Rep.

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

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) *Quash the impugned order No. NE/JC805141A/LN/SR/LC dated 17.05.2022 and copy of impugned letter No. PEN GP/JC-805141A/DP dated 01.12.2021.*
- (b) *Direct the respondents to grant disability element of pension to the applicant duly round off to 50% w.e.f. his date of discharge.*
- (c) *Direct respondents to pay the due arrears of disability element of pension with interest @12% p.a. from the date of retirement with all the consequential benefits.*
- (d) *Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstance so the case along with cost of the application in favour of the applicant and against the respondents.*

2. The applicant was enrolled in the Indian Air Force on 21.11.1977 and discharged from Air Force Service

on 31.12.2017 after rendering 40 years, 1 months and 11 days of regular service. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the release medical records. The composite disabilities for the ailments have been assessed at 40%. During the course of hearing today, learned counsel for the applicant made a fair statement that in this application, the applicant would only be praying for disability pension pertaining to one ailment, i.e. Primary Hypertension and he gives up his claim for all other ailments. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records.

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. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement, i.e., 31.12.2017 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.

5. 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.

6. No order as to costs.

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

Pronounced in the open Court on 16 day of July, 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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