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

49.

OA 2066/2023 WITH MA 1398/2024
AND MA 2995/2023

Lt Col Chaman Singh Shishodia (Retd) ..... Applicant
Versus
Union of India & Ors. ..... Respondents

For Applicant : Mr. Ajit Kakkar, Advocate with
Ms. Eti, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC

CORAM

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

ORDER
05.08.2024

MA 1398/2024

Counter affidavit has been filed. There being some delay in filing the same, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

2. The MA stands disposed of.

MA 2995/2023

3. Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in ***Union of India and others*** Vs. ***Tarsem Singh*** [(2008) 8 SCC 648], the MA is allowed condoning the delay in filing the OA.

4. Invoking the jurisdiction of this Tribunal under Section 14, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

> *"a. To direct the respondents to bring all service and medical documents including the RMB conducted twice on record with advance copy to the applicant.*
>
> *b. To grant disability pension to the Applicant from the date of Release (30.11.2019) w.e.f. 01.12.2019.*
>
> *c. To direct the Respondents to grant broad banding of the disability pension w.e.f. 01.12.2019.*
>
> *d. To direct the Respondents to issue a corrigendum PPO pertaining to the disability pension and broad banding of the disability pension of the Applicant.*
>
> *e. To direct the Respondents to pay arrears of disability pension and broad banded disability pension along with interest @ 12% w.e.f. 01.12.2019.*
>
> *f. To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper."*

5. The applicant was commissioned into the Indian Army on 26.02.1986 and discharged from service on 30.11.2019. The applicant was examined by a duly constituted RMB on 28.08.2019 which held his disability of Primary Hypertension @ 30% for life while it was held that the disability was neither attributable to nor aggravated by military service. 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% for life.

6. 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%.

7. The respondents are directed to grant disability element of pension to the applicant @ 30% for the disability of Primary Hypertension for life which be rounded off to 50% for life from the date of retirement, i.e., 30.11.2019, 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. However, the arrears will be restricted to three years from the date of filing of this OA or the date of applicant's retirement/discharge, whichever is lesser, in

keeping with the law laid down in the case of ***Union of India and others*** Vs. ***Tarsem Singh*** [(2008) 8 SCC 648].

8. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% for life rounded off to 50% for life and direct the respondents 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.

9. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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