

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

OA 2094/2019

Ex Nk Kundan Singh ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. Janak Raj Rana, Advocate
For Respondents : Mr. K.K. Tyagi, Advocate with
Maj Lauv Kumar, OIC Legal (Army)

CORAM :

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, the applicant has filed this application and prays for grant of disability pension.

2. The applicant was enrolled in the Indian Army on 27.07.1998 and discharged from service on 31.12.2016. The applicant submits that he has suffered from disability - Acute Myocardial Infarction @ 30% for lifelong and held as NANA by service as is evident from the medical records. On a perusal of the medical records, we find that the applicant is a smoker, but it has been further recorded that no modifiable coronary risk factors were present. Furthermore, applicant has served in total 7 postings, out of which except 2 wherein he served in peace, rest all postings have been in either field or

modified field areas, including the period of 19.07.1996 to 23.10.2005 wherein he continuously served in field postings.

3. Taking note of the aforesaid, and 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] wherein it is clearly spelt out that any disease contracted during service is presumed to be attributable to military service, if there is no record of any ailment at the time of enrollment into the military Service, we see no reason not to allow the prayer of the applicant with regard to the aforesaid disability.

4. 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. 31.12.2016 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.

Pronounced in the open Court on 29th day of February, 2024

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps
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