

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

143.

OA 2126/2022

Sub Maj/M Tech (Opto Elect)	Applicant
Achyuta Pradhan (Retd)		
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. S S Pandey, Advocate
For Respondents	:	Mr. Rajan Khosla, Advocate

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

ORDER
10.01.2024

OA 2126/2022

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) Call for the records of the RMB proceedings as well as the findings and opinion as approved by the competent authority based on which the Respondents in most illegal manner rejected the claim of the applicant for disability pension in respect of disability of Fracture Base of 1st, 2nd, 3rd and 4th Metatarshal (LT) Foot (S92.9) and Primary Hypertension (110.0) vide their impugned order dated 18.03.2020, and subsequently have also rejected the two Appeal filed against denial of disability pension vide their orders dated 23.03.2022 and 18.09.2020 and thereafter

quash all such orders including the order dated 18.03.2020.

(b) Direct respondents to process the claim of the applicant in respect of disability i.e. PRIMARY HYPERTENSION (30%) and Fracture Base of 1st, 2nd, 3rd and 4th Metatarshal (LT) Foot (10%) and compositely assessed at 40% and thereafter, grant him such disability pension @ 50% after extending the benefit of broad banding by enhancing the disability element from 40% to 50%, along with arrears with an interest @ 18 % as expeditiously as possible w.e.f the date of retirement till the final disposal of the present OA.

(c) Issue such other order/direction as may be deemed appropriate in the facts and circumstances of the case.”

2. Even though the applicant is found to be suffering from the following two ailments viz. (i) Primary Hypertension and (ii) and Fracture Base of 1st, 2nd, 3rd and 4th Metatarshal (LT) Foot, the composite disability for the two ailments have been assessed at 40%. 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 praying for disability 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%.

5. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% 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. However, the arrears will be restricted to three years prior to filing this OA .i.e., 07.09.2022 in

keeping with the law laid down in the case of *Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649]*.

7. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of a copy of this order, failing which, the applicant shall be entitled to 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)

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