

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

OA 2189/2023

Hav Has Bahadur Gurung (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate  
For Respondents : Mr. R.S. Chillar, Advocate

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 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 direct the respondents to grant disability element of pension by setting aside the impugned order with broad banding benefit of rounding off to 50% of his disability by treating his disability as attributable to and aggravated from the Military service.*

*(b) To direct the respondents to pay due arrears of disability pension with interest @10% p.a. with all the consequential benefits.*

*(c) Call for original medical records including RMB proceedings as same has not been supplied to him despite rejection of DE.*

*(d) To pass such further order or orders, direction/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.*

4. The applicant was enrolled into the **Indian Army** on **01.10.1998** and discharged from service on **30.09.2022**. The applicant was examined by a duly constituted RMB on 28.04.2022 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.

5. 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%.

6. 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., **30.09.2022**, 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, 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.

8. No order as to costs.

9. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 30 day of August, 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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