

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

113.

OA 2198/2019

Maj Gen MM Batra (Retd)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Aditya Singh Puar, Advocate
For Respondents	:	Mr. R.S. Chillar, Advocate for Mr. V Pattabhi Ram, Advocate

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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

16.02.2024

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 commissioned in the Indian Army on 13.10.1963 and superannuated from service on 30.06.1997. The applicant submits that he has suffered from disability – Ischemic Heart Disease (CABG Done) @ 40% for 2 years and held as aggravated by service 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] 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. Furthermore, in accordance with the judgment of Hon'ble Supreme Court in *Commander Rakesh Pande v. UoI & Ors. [Civil. Appeal No. (s) 5970/2019]*, we find that in case of disabilities adjudicated as being of permanent nature, the decision once arrived at will be for life unless the individual himself requests for a review. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 40% for life which be rounded off to 50% for life from the date of retirement i.e. 30.06.1997 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 (24.10.2019) in view of the law laid down in the case of *Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649]*.

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.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Vide our orders of even date, we have allowed the OA. Faced with the situation, learned counsel for the respondents makes an oral prayer for grant of leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007, to the Hon'ble Supreme Court. We find no question of law much less any question of law of general public importance involved in the matter to grant leave to appeal. Hence, the prayer for grant of leave to appeal is declined.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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