

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

A.

OA 222/2017 WITH MA 4453/2023 AND MA 908/2024

Sqn Ldr V P Sharma (Retd.)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Ajai Bhalla, Advocate
For Respondents	:	Mr. Y P Singh, Advocate

CORAM

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

ORDER
02.04.2024

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)

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ORDER

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application seeking grant of disability pension.

2. The applicant was commissioned in the Indian Air Force on 24.09.1983 and retired from service on 30.09.1996. The applicant submits that for the purpose of disabilities: ~ (i) IHD and (ii) NIDDM, both the disabilities have been assessed @ 30% each for two years with composite assessment @40% 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. 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 the question of disabilities of permanent nature to be deemed to have been assessed for life, has been settled.

4. On perusal of Para 17 (A) of GMO 2002 (amended in 2008) which reads as follows :-

17 A. Composite Assessment.

(i) Where there are two or more disabilities due to service, compensation will be based on the composite assessment of the degree of disablement. Generally speaking, when separate disabilities have entirely different functional effects, the composite assessment will be the arithmetical sum of their separate assessments. But where the functional effects of the disabilities overlap, the composite assessment will be reduced in proportion to the degree of overlapping. There is a tendency for some Medical Boards to reduce the composite assessment in the former group of cases. This is not correct.

We observe that the medical authorities have clearly erred in calculation of composite assessment of for both disabilities @30% each.

5. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 51% for life [For IHD @30% and for NIDDM

@21%] which shall be rounded off to 75% for life from the date of retirement i.e. 30.09.1996 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 shall be restricted to three years prior to the date of filing of OA (08.02.2017) keeping in view the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

6. 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.

7. No order as to costs.

8. Pending miscellaneous application, if any, stands disposed of.

Pronounced in the open Court on this 2 day of April, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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