

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

82.

OA 2235/2022

WO Rajbir Singh (Retd)

..... Applicant

Versus

Union of India & Ors.

..... Respondents

For Applicant : Mr. Ramniwas Bansal, Advocate

For Respondents : Dr. Vijendra Singh Mahndiyan, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
28.03.2024

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application and the reliefs claimed in para 8 read as under:

- (a) *To quash and set aside the applicant's RMB proceedings to the extent the order denies grant of Disability element of pension to the applicant, despite his disability assessment @40% for lifelong.*
- (b) *To set aside the impugned order and direct the respondents to grant the disability element of pension @40%, broad banded to 50% along with all consequential benefits, with arrears and interest @12% p.a. w.e.f date of discharge by treating disease as attributable to and aggravated by military service, in view of the Hon'ble Apex Court judgment in Rajbir Singh (Supra) & Dharamvir Singh (Supra).*

2. The applicant was enrolled in the Indian Air Force on 05.03.1983 and discharged on 30.09.2021. The applicant submits that for the purpose of Primary Hypertension, the

disability has been assessed @ 30% 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 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 Release Medical Board @ 30%. In so far as the second disability viz. Osteochondral Lesion Talus (LT) @ 15%. Since the second disability has been assessed less than 20%, it does not fulfill the twin criteria as per Rule 153 Pension Regulations for IAF, 1961 (Part-I) and hence is not admissible.

4. Accordingly, we partially allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 30.09.2021 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.
7. Pending miscellaneous application, if any, stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)