

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

87.

OA 2251/2019 with MA 3144/2019

Col Anirudha Nath (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. OS Punia, Advocate
For Respondents : Mr. V. Pattabhi Ram, Advocate

CORAM

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

ORDER
06.05.2024

MA 3144/2019

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh (2009(1) AISLJ 371), the delay in filing the OA is condoned.

MA stands disposed of.

OA 2251/2019

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) *Set aside the impugned order of AG Branch, IHQ of MOD (Army) dated 02.08.2017 and all such other orders denying disabilities pension to the Applicant.*
- (b) *Set aside the decision of the Release Medical Board dated 31.01.2011, of holding the Disability of the*

Applicant as 'Neither Attributable to Nor Aggravated By' Military Service being contrary to the law settled by the Hon'ble Supreme Court

- (c) Direct the respondents to grant disability pension to the Applicant with disability element @ 30% with benefit of rounding off from 30% to 50% from the date of his retirement and grant him disability pension accordingly for the future.*
- (d) Direct the respondents to pay the arrears of the disability pension to the Applicant from the date of retirement with interest @ 9% pa.*
- (e) Issue any other/direction as this Hon'ble Tribunal may deem fit in the facts of the case.*

2. The applicant was commissioned in the Indian Army on 16.12.1978 and discharged from Service on 30.06.2011. 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 also been assessed at 30%.

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 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%.

4. Accordingly, we allow this application and direct the respondents 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, i.e., 30.06.2011 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:

- (i) 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 MA (s), if any, stands closed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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