

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

95.

OA 2276/2022 WITH MA 3052/2022
AND MA 4275/2023

Gp Capt Rajesh Kumar Singh Jadon (Retd)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Ajit Kakkar, Advocate
For Respondents	:	Mr. Neeraj, Sr. CGSC

CORAM

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

ORDER
05.01.2024

MA 3052/2022

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in Union of India and others Vs. Tarsem Singh (2008) 8 SCC 648, the same is allowed condoning the delay in filing the OA.

2. The MA stands disposed of.

MA 4275/2023

3. Counter affidavit has been filed. There being delay in filing the same, this application has been filed seeking condonation of delay. Delay is condoned. Counter affidavit is taken on record.

4. The MA stands disposed of.

5. 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 direct the respondents to bring all documents on record with advance copy to the applicant.

(b) To grant disability pension to the Applicant from the date of Release (31.07.2021) w.e.f. 01.08.2021.

(c) To direct the Respondents to grant broad banding of the disability pension w.e.f. 01.08.2021.

(d) To direct the Respondents to issue a corrigendum PPO pertaining to the disability pension and broad banding of the disability pension of the Applicant.

(e) To direct the Respondents to pay arrears of disability pension and broad banded disability pension along with interest @ 8% w.e.f. 01.08.2021.

(f) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.

6. Even though the applicant is found to be suffering from the two ailments viz, (i) Primary Hypertension (Old) Z09 assessed @ 30% and (ii) Type-II DM (Old) Z09 assessed @ 20%. The composite disability for the two ailments has been assessed at 40% for life. During the course of hearing

today, learned counsel for the applicant made a fair statement that for the present in this application, the applicant would only be praying for disability pension pertaining to one ailment, i.e., Primary Hypertension and he gives up his claim for other ailment. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records.

7. 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%.

8. The respondents are directed 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., 31.07.2021, 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.

9. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% with effect from the date of his discharge, i.e., 31.07.2021 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.

10. No order as to costs.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[REAR ADMIRAL DHIREN VIG]
MEMBER (A)**

Neha
OA 2276/2022