

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

88.

OA 2328/2019 with MA 1838/2020

Ex Sgt Prabhat Mani Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Sonu Sharma, Proxy Counsel for
Mr. Ajeet Yadav, Advocate
For Respondents : Mr. Harish V Shankar, Advocate

CORAM

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

ORDER
06.05.2024

MA 1838/2020

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

MA stands disposed of.

OA 2328/2019

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) *To quash and set aside the and Impugned order and RMB proceedings to the extent this order deny the grant of Disability Pension to the applicant;*
- (b) *To direct the respondents to grant the disability pension @ 30% broad-banded to 50% alongwith*

interest @ 12% p.a from date of discharge, by treating disease as attributable to and aggravated by military service.

(c) To pass such further order or orders/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.

2. The applicant was enrolled in the Indian Air force on 04.02.1999 and discharged from Service on 28.02.2019. 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., 28.02.2019 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)

/jyoti/