

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

OA 2532/2023

Sgt Sachida Nand ... Applicant
Versus
Union of India and Ors. ... Respondents

For Applicant : Mr. Tatsat Shukla, Advocate
For Respondents : Mr. Sudhir Kumar, Advocate

CORAM

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

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of Armed Forces Tribunal Act, 2007, the instant OA has been filed by the applicant praying for directing Respondents to grant disability pension from the date of the retirement.

2. The factual matrix of the case is that the applicant was enrolled in the Indian Air Force on 17.06.2002 and discharged on 30.06.2022 after about 20 years and 13 days of qualifying service. During the Release Medical Board conducted vide AFSMF-16 dated 29.11.2021 prior to his retirement, he was found to be suffering from disability - Primary Hypertension @ 30% for life while his disability were held to be Not Attributable Nor Aggravated (NANA).

3. Learned counsel for the applicant stresses that the disability was detected in Nov 2009, after more than 7 years of Air Force service due to continuous service stress, and strain of Air Force service, dietary compulsion of service and being posted to different areas and lack to time for proper rest, exercise and walking wherein the causal connection of the disability is clearly established with the Air Force service.

4. Placing reliance on the judgement of the Hon'ble Supreme Court in Dharamvir Singh Vs UOI & Ors [2013 (7) SCC 36], Learned Counsel for applicant argues that no note of any disability was recorded in the service documents of the applicant at the time of the entry into the service, and that he served in the Air Force at various places in different environmental and service conditions in his prolonged service, thereby, any disability at the time of his service is deemed to be attributable to or aggravated by military service.

5. Per Contra, learned counsel for the respondents submits that under the provisions of Rule 153 of the Pension Regulations for the Indian Air Force, 1961 (Part-I), the primary condition for the grant of disability pension is invalidation out of service on account of a disability which is attributable to or aggravated by Air Force service and is

assessed @ 20% or more.

6. Relying on the aforesaid provision, learned counsel for respondents further submits that the aforesaid disabilities of the applicant were assessed as “neither attributable to nor aggravated” by Air Force service and not connected with the Air Force service and as such, his claim was rejected; thus, the applicant is not entitled for grant of disability pension due to policy constraints.

7. Learned counsel further argues that the applicant had a family history of Hypertension (Permanent) and the same has been recorded vide AFSMF-7A dated 24.11.2009, and in this background of genetic loading, the applicant was diagnosed to have Primary Hypertension, specifically when all his postings were in peace area and he was employed in the trade of ‘Radio Fitter’, hence, the disability cannot be held attributable to or aggravated by service as the same is hereditary in nature, and not connected to the Air Force Service.

8. On the careful perusal of the materials available on record and also the submissions made on behalf of the parties, we are of the opinion that it is not in dispute that the extent of

disability was assessed to be above 20% which is the bare minimum for grant of disability pension in terms of Regulation 153 of the Pension Regulations for the Indian Air Force, 1961 (Part-I). The only question that arises in the above backdrop is whether disability - Primary Hypertension suffered by the applicant is attributable to or aggravated by military service.

9. 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%.

10. 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. 30.06.2022 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.

11. 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.

12. No order as to costs.

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

Pronounced in the open Court on 30th of August, 2024.

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

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

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