

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

OA 2632/2023

Hav Lavkush Kumar Singh ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. U.S. Maurya, Advocate  
For Respondents : Ms. Reetesh Agarwal, Advocate

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

ORDER

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) Direct Respondents to grant Disability Element wef 31-01-2023 (date of discharge) after rounding off from 30% to 50% with 12% interest as applicant's disease originated first time after 20 years of service in Armed Forces and his case is squarely covered on the matter of linkage with 'peace' or 'field' service vide page No. 26 of Raksha Mantri's Committee of Experts-2015 and many orders/judgements of Hon'ble Armed Forces Tribunal including in the case of Union of India & Ors Vs V. R Nanukuttan Nair Civil Appeal Nos 4714-4715 of 2012 dated 07-11-2019 (Annexure A-5). In addition to above the disease neither attributable to nor aggravated by military service by the Hon'ble Supreme Court in the case Dharamvir Singh Vs. Union of India & Ors. (Civil Appeal No. 4949 of 2013 judgment dated 02.07.2013), Union of India Vs. Rajbir Singh (Civil Appeal No. 2904 of 2011 judgment on 13.02.2015 along with the 26 connected appeals), Union of India & Ors. Vs. Angad Singh Titaria (Civil Appeal No. 11208 of 2011 judgment on 24.02.2015)*

*and latest judgment Ex. Gnr. Laxmanram Poonia (Dead) Through Lrs. Vs. Union of India and Ors. (Civil Appeal No. 2633 of 2017 judgment dated 22.02.2017). And applicant case is squarely covered on the matter of disease Rounding of/Broad Banding vide para 10 of Govt. of India Ministry of Defence Department of Ex-servicemen Welfare New Delhi letter No. 17(02)/2016- D(Pen/Pol) dated 04.09.2017 and vide para 4.1/7.2 of Govt. of India Ministry of Defence letter No. 1(2)/97/I/D (Pen C) dated 31.01.2001.*

*(b) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.*

*(c) Award cost of the OA to the applicant."*

2. The applicant was enrolled into the Indian Army on 12.01.1999 and discharged from service on 31.01.2023. The applicant was examined by a duly constituted RMB on 19.10.2022, which held his disability of Primary Hypertension @ 30% for life and it was held that the disability was neither attributable to nor aggravated by service. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% for life as is evident from the medical records. The composite disability for the ailment has been assessed at 30% for life.

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. The respondents are directed to grant disability element of pension for the disability of Primary Hypertension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement, i.e., 31.01.2022, 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.

5. Accordingly, we allow this OA holding that the applicant is entitled to disability element of pension @ 30% for the disability of Primary Hypertension rounded off to 50% for life 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.

6. No order as to costs.

7. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 9<sup>th</sup> day of July, 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

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