

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

99.

OA 2758/2023 WITH MA 2606/2024

WO (Retd) Amar Singh Applicant
Versus
Union of India & Ors. Respondents
For Applicant : Mr. Rohit Pratap, Advocate
For Respondents : Ms. Barkha Babbar, Advocate

CORAM :

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

ORDER
04.10.2024

MA 2606/2024

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 2758/2023

2. 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 declare the action of respondents as unjust, arbitrary and illegal.*
- (b) *To direct the respondents for grant of disability element of pension and pay arrears @ 30% with an interest @ 18% per annum from the date of applicant's superannuation from service i.e., 31 Jan 2021.*
- (c) *To direct the respondents to grant the benefit of rounding off disability of the applicant to 50% from 30% and pay arrears with an interest @ 18% per annum from the date of applicant's superannuation from service i.e. 31 Jan 2021 in terms of letter dated 31 Jan 2001.*

(d) *To grant an interest @ 18% on delayed payment of the disability pension.*

The applicant was enrolled in the Indian Air Force on 03.01.1981 and discharged from Service on 31.01.2021. 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 been assessed at 30% for life.

4. 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%.

5. 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 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. However, the arrears will be restricted to three years from the date of filing of this OA or the date of applicant's retirement/discharge, whichever is lesser, in keeping with the law laid down in the case of *Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649]*.

6. 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.
7. No order as to costs.
8. Pending miscellaneous application, if any, stands closed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

/vks/