

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

63.

OA 2810/2022 WITH MA 5109/2023

Col Anjani Kumar Singh (Retd)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Manoj Kr Gupta, Advocate
For Respondents	:	Mr. Neeraj, Sr. CGSC

CORAM

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

ORDER
12.01.2024

MA 5109/2023

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.

2. MA stands disposed of.

OA 2810/2022

3. 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) Quash and Set aside the impugned orders (Annexure A-1/Colly).

(b) To direct the respondents to grant the disability element of DP for the Disease of PH which has been

assessed @30% duly broad banded to 50% alongwith arrears \$ interest @10% p.a. w.e.f., date of discharge, by treating disease as attributable to and aggravated by military service in terms of squarely covered judgements produced at Annexure -A5 and 6.

(c) Issue such other orders/directions as may be deemed appropriate in the facts and circumstances of the case.

4. The applicant was enrolled in the Indian Army on 17.06.1995 and discharged from service on 01.11.2021. 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%.

5. 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 v. 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%.

6. 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., 01.11.2021 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.

7. 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.

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

9. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT. GEN. P.M. HARIZ]
MEMBER (A)

Vide our orders of even date, we have allowed the OA. Faced with the situation, learned counsel for the respondents makes an oral prayer for grant of leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007, to the Hon'ble Supreme Court. We find no question of law much

less any question of law of general public importance involved in the matter to grant leave to appeal. Hence, the prayer for grant of leave to appeal is declined.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT. GEN. ~~P.M.~~ HARIZ]
MEMBER (A)

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