

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

96.

OA 2903/2023 WITH MA 3877/2024 AND MA 4033/2023

Sgt M L Chaudhary (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ajeet Yadav, Advocate and
Mr. Devendra Verma, Advocate
For Respondents : Mr. Arvind Kumar, Advocate

CORAM

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

ORDER
24.09.2024

MA 4033/2023

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648), the delay in filing the OA is condoned.

2. MA stands disposed of.

MA 3877/2024

3. 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.

4. MA stands disposed of.

OA 2903/2023
Sgt M L Chaudhary

OA 2903/2023

5. 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 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 place on record the copy of RMB proceedings in respect of the applicant conducted at the time of discharge.

(c) To direct the respondents to grant the disability pension @30% broad-banded to 50% along with interest @12% p.a. from date of discharge, by treating disease as attributable to and aggravated by military service .

2. The applicant was enrolled in the **Indian Air Force** on **20.09.1991** and discharged from Air Force Service on **31.05.2013** after rendering 21 years and 254 days of regular service. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records.

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 Release Medical Board @30%.

5. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @30% for life which be rounded off to 50% for life from the date of retirement, i.e., **31.05.2013** 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, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649] the arrears shall be restricted to three years prior to the date of filing of OA. [Date of filing of OA: **21.09.2023**].

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.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps