

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

101.

OA 2961/2023

Ex Sgt Narendra Prasad Gupta Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ajeet Yadav, Advocate
For Respondents : Mr. Rajeev Kumar, Advocate

CORAM :

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

ORDER
25.9.2024

OA 2961/2023

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 the findings of the RMB conducted at the time of discharge denying the disability pension to the applicant.*
- (b) *Direct respondents to grant disabilities element of pension duly rounded off to 50% w.e.f. his date of discharge.*
- (c) *Direct respondents to pay the due arrears of disabilities element of pension with interest @12% p.a. from the date of retirement with all consequential benefits.*

2. The applicant was enrolled in the Indian Air Force on 17.06.2002 and discharged from service on 30.06.2022. The applicant while in active service suffered with the disabilities, namely, Type II Diabetes Mellitus (E 11.0) in June 2019 assessed at 20% and Primary Hypertension ICD No.I 10.0 in December 2021

assessed at 30%. The composite assessment of these disabilities was made at 44%, as is evident from the medical records. However, during the course of arguments learned counsel for the applicant submitted that the applicant will be satisfied if only his claim for Primary Hypertension assessed at 30% and rounded off to 50% is considered for purposes of grant of disability pension.

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, assessed by the competent Medical Board @ 30%.

4. Accordingly, we allow this OA and direct the respondents:

- (i) 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 and Ors. 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].

- (ii) 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.

5. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

/vks/