

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

108.

OA 3043/2023 WITH MA 2928/2024  
AND MA 4230/2023

Hav Dhandev Hariba Bane (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Durgesh Kumar Sharma, 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  
04.10.2024

MA 4230/2023

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay in filing the present OA. In view of the judgment of the Hon'ble Supreme Court in the matter of Union of India and Ors. Vs. Tarsem Singh [2009 (1) AISLJ 371] and the reasons mentioned in the application, the delay in filing the OA is condoned.

2. The MA is disposed of accordingly.

MA 2928/2024

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.

5. 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) Direct respondents to grant disability pension @ 50% after rounding off from @ 30% for life (Primary Hypertension) as recommended by RMB to the applicant with effect from 01 March 2008 i.e. the date of discharge from service with interest @ 12% p.a. till final payment is made.*

*(b) Direct the respondents to pay Rs.50,000/- towards mental harassment and agony caused to applicant by respondent and also direct the respondent to Rs.50,000/- for litigation cost.*

6. The applicant was enrolled in the Indian Army on 27.04.1985 and discharged from Service on 29.02.2008. 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.

7. 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%.

8. 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].

9. 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.

10. No order as to costs.

11. Pending miscellaneous application, if any, stands closed.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

/vks/