

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

62.

OA 3044/2022 with MA 4261/2022

Ex WO Pravin Kumar Pawar	.....	Applicant
Versus		
Union of India & Ors.	.....	Respondents
For Applicant	:	Mr. Virender Singh Kadian, 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  
24.04.2024

MA 4261/2022

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in Union of India and others Vs. Tarsem Singh (2008) 8 SCC 648, the same is allowed condoning the delay in filing the O.A.

OA 3044/2022

2. 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) Direct respondents to treat the disabilities of the applicant as attributable to/aggravated by military

service and grant disability element of pension from the date of retirement of the applicant along with benefit of broad banding.

(b) Direct respondents to pay the due arrears of disability element of pension with interest @12% p.a. from the date of retirement with all the consequential benefits.

(c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case."

3. In this case, the applicant was enrolled in **Indian Air Force** on 25<sup>th</sup> March, 1980 and on completion of service was discharged on 28<sup>th</sup> February, 2018 in low medical category. Even though the applicant is found to be suffering from the following two ailments viz. (i) Diabetes Mellitus Type-II ICD Z 09.0 (OLD) and (ii) Primary Hypertension, and (iii) Dyslipidemia ICD, release medical board dated 03<sup>rd</sup> April, 2017 held his disability (a) Diabetes Mellitus @ 20% for life, (b) Primary Hypertension @ 30% for life, and (c) Dyslipidemia @ 1-5% for life, the composite assessment of disability for the two ailments have been assessed at 50% for life. During the course of hearing today, learned counsel for the applicant made a fair statement that for the present in this application, the applicant would only be pressing for disability element of

pension pertaining to one ailment i.e., Primary Hypertension and he gives up his claim for all other ailments.

4. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% for life as is evident from the medical records.

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 holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% for life with effect from the date of his discharge. All other claims stand rejected.

7. The respondents are directed 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].

8. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant. The arrears shall be disbursed to the applicant within four months from the date of receipt of a copy of this order, failing which, these shall carry interest @ 6% per annum till the date of payment.

9. No order as to costs.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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