

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

OA 3188/2023

Ex Hav Jyoti Kumar Singh Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ved Prakash &
Mr. Devendra Kumar, Advocates
For Respondents : Mr. Waize Ali Noor, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

OA 3188/2023

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) Quash Impugned order Impugned order No. P/15394951Y/DP-1/Rejection/NER dated 11.01.2022 and Impugned order no. B/40502/907/2022/AG/PS-4 (1st Appeal) dated 11.11.2022.
- (b) Direct the respondents to grant disability element of pension to the applicant duly round off to 50% w.e.f his date of discharge.
- (c) 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.
- (d) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents."

2. In this case, the applicant was enrolled in Indian Army on 26th February, 1996 and was discharged from service on 28th February, 2022. The Release Medical Board dated 09th November, 2021 found him fit to be released from service in low medical category P2(P) for the disability of Primary Hypertension.
3. 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.
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 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% for life.
5. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension for the disability of Primary Hypertension @ 30% rounded off to 50% for life with effect from the date of his discharge.
6. The respondents are directed to grant disability element of pension for the disability of Primary Hypertension 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

7. 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.

8. No order as to costs.

Pronounced in the open Court on 2nd day of September, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

/Jyoti/