

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

92.

OA 3231/2023

JWO Pancha Nand Jha (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. AK Chaudhary, 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
27.09.2024

OA 3231/2023

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 and set aside the impugned order dated 23 Feb 2022 to the extent this order deny the grant of Disability Pension to the applicant;

(b) Direct the Respondents to treat the disabilities of the Applicant namely, “Primary Hypertension, Diabetes Mellitus Type-II and Dyslipidemia” as aggravated by military service;

(c) Direct the Respondents to grant disability element of pension to the Applicant @ 50 % for life w.e.f. 01.12.2021, as degree of his disablement for because of the said composit disabilities have been assessed @ 50% for life by the RMB;

(d) Direct the Respondents to pay disability element of pension to the Applicant at an enhanced rate @ of 75% for life w.e.f. 01.12.2021 by rounding-off/broadbanding Applicant's disability from 50% to 75% as per Govt. Policy dated 31.01.2001.

(e) Direct the Respondents to pay to the Applicant an interest @ 10% per annum on the arrears of enhanced disability pension w.e.f. 01.07.2022 and/or;

(f) To pass such further order or orders/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law."

2. In this case, the applicant was enrolled in **Indian Air Force** on **23rd November, 1982** and on completion of service was discharged on **31st November, 2021**. The applicant is found to be suffering from the three ailments viz. (i) Primary Hypertension, (ii) Diabetes Mellitus- Type II and (iii) Dyslipidemia, and the Release Medical Board dated **22nd March, 2021** held his disability (i) Primary Hypertension @ 30% or life and (ii) Diabetes Mellitus Type II @ 20% for life and (iii) Dyslipidemia @ 5%. The composite assessment of disability for the three ailments has 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 the other ailments.

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 @ 30% for life rounded off to 50% for life with effect from the date of his discharge. All other claims stand rejected.

6. The respondents are directed to grant disability element of pension to the applicant @ 30% for life for the disability of primary hypertension which be rounded of 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.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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