

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

94.

OA 3239/2023 WITH MA 2265/2024

Nb Sub (hony ) Arvinda Kumar Azad (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate  
For Respondents : Mr. Waize Ali Noor, Advocate

CORAM

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

ORDER  
27.09.2024

MA 2265/2024

For the averments made in the application, delay in filing the counter affidavit is condoned. Counter affidavit is taken on record. MA stands disposed of.

OA 3239/2023

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) To direct the respondents to grant disability element of pension for life by RECALLING initial rejection letter as RMB Proceedings and setting aside the same;
- (b) Grant DE with broad banding benefit of rounding off from 30% to 50% by treating his disability as attributable to and aggravated from the Military service in terms of judgments placed at Annex-A4, relying upon the settled Law of Hon'ble Apex Court in *Dharamvir Singh (Supra)*, *Uoi vs Rajbir Singh and Rakesh Pandey (Supra)*, and/or
- (c) To direct the respondents to pay due arrears of disability pension with interest @ 10% p.a. with all the consequential benefits; and/or

(d) Call for original medical records including RMB proceedings as same has not been supplied to him and also initial rejection letter etc; and/or To pass such further order or orders, direction/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.”

3. In this case, the applicant was enrolled in **Indian Army** on **26<sup>th</sup> September, 1990** and was discharged from service on **30<sup>th</sup> February, 2014**. The Release Medical Board dated **8<sup>th</sup> July, 2014** found him fit to be released from service in low medical category P2(P) for the disability of Primary Hypertension.

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% for life.

6. 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.

7. 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. However, the arrears will be restricted to three years prior to the date of filing of this OA i.e. 12.10.2023, 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)

Priya