

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

OA 3438/2023 WITH MA 4649/2023

MWO (HFO) Ramesh Patil Budha (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ravi Kumar, Advocate
For Respondents : Mr. Sudhir Kumar, Advocate

CORAM

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

ORDER

MA 4649/2023

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648), the delay in filing the OA is condoned.

2. MA stands disposed of.

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3. 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 the disability element of pension @50% broad banded to 75% for life in view of the Hon'ble Apex Court Judgment in *Rajbir Singh (Supra)* and *Dharamvir Singh (Supra)* by treating the disabilities as attributable and aggravated to military service.

(b) To set aside the impugned order and direct the respondents to grant the disability element of pension @50% for lifelong, broad-banded to 75% along with all consequential benefits and with the arrears & interest @12% p.a. wef. Date of discharge by treating disease as attributable to and aggravated by military service.

2. The applicant was enrolled in the **Indian Air Force** on **10.12.1968** and discharged from Air Force Service on **31.12.2007** after rendering more than 39 years of regular service. During the course of hearing, learned counsel for the applicant made a fair statement that in this application, the applicant would only be praying for disability pension pertaining to one ailment i.e. Primary Hypertension and he gives up his claim for all other ailments. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% 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 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 Release Medical Board @30%.

5. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement, i.e., **31.12.2007** 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, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649] the arrears shall be restricted to three years prior to the date of filing of OA. [Date of filing of OA: 30.10.2023]. The arrears shall be disbursed to the applicant within four months of receipt of this order failing which it shall earn interest @ 6% p.a. till the actual date of payment.

6. 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.

7. No order as to costs.

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

Pronounced in the open Court on 24th day of September 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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