

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

94.

OA 345/2023

Gp Capt (TS) B N Sharma (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate
For Respondents : Mr. Neeraj, Sr. CGSC

CORAM

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

ORDER
29.05.2024

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

- (a) *Quash and set aside the impugned orders (annexure A-1/Colly) and call for the initial rejection letter and quashed it being unreasonable.*
- (b) *To direct the respondents to grant the disability element of DP for all Diseased which has been assessed @50% duly broad banded to 75% along with interest on arrears @10% p.a. w.e.f. date of discharge, by treating diseased as attributable to and aggravated by military service in terms of squarely covered judgments.*

4. The applicant was commissioned in the Indian Air Force on 27.11.1995 and has taken premature separation from service at his own request on 14.12.2022. The applicant is found to be suffering from the three ailments viz (i) Hypertrophic Cardiomyopathy assessed @20 for life, (ii) Primary Hypertension

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assessed @30% for life and (iii) Hypertriglyceridemia assessed @5% for life. The composite 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, in this application, the applicant would only be praying for disability element of 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.

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 Release Medical Board @ 30%.

6. 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., 14.01.2022 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 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.

8. No order as to costs.

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

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps
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