

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

93.

OA 3519/2023 WITH MA 1860/2024

Sgt Praveen Kumar Upadhyay (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Nawneet Krishna Mishra, Advocate
For Respondents : Mr. K K Tyagi, Sr. CGSC

CORAM

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

ORDER
08.10.2024

MA 1860/2024

Counter affidavit has been filed. There being some delay in filing the same, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

2. The MA stands disposed of.

OA 3519/2023

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 quash and set aside the RMB proceedings and Impugned Order to the extent they deny the grant of disability element of pension to the applicant;

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(b) To direct the respondents to grant the disability element of pension @ 30% broad-banded to 50% with interest @12% p.a. wef date of discharge, by treating the disabilities as attributable to and/ or aggravated by military service.

(c) To pass any other order(s) or/and direction(s) in favour of the applicant which may deem just and proper under the facts and circumstances of the case in the interest of justice."

4. The applicant was enrolled into the Indian Air Force on 17.06.2002 and discharged from service on 30.06.2022. The applicant was examined by a duly constituted RMB on 27.08.2021, which held his disability of Primary Hypertension @ 30% for life and it was held that the disability was neither attributable to nor aggravated by military service. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records. The composite disability for the ailment has been assessed at 30% for life.

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 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 competent Medical Board @ 30%.

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, i.e., 30.06.2022, 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, we allow this application holding that the applicant is entitled to disability element of pension @ 30% for the disability of Primary Hypertension rounded off to 50% for life and direct the respondents 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.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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