

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

OA 3573/2023

MWO Ratan Debnath (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents  
For Applicant : Mr. Raj Kumar, Advocate  
For Respondents : Mr. R S Chhillar, Advocate

CORAM

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

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA with the following prayers:-

*(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.*

*(b) To direct the respondents to grant the disability element of pension @31.6% 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.*

2. The applicant was enrolled in the Indian Air Force on 13.09.1983 and discharged from service on 31.01.2023 after rendering total 39 years 04 months and 17 days 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. Diabetes Mellitus (Old) and he gives up his claim for all other ailments. The applicant submits that for the purpose of Diabetes Mellitus (Old), the disability has been assessed @ 20% as is evident from the medical records.

3. 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 wherein it is clearly spelt out that any disease contracted during service is presumed to be attributable to military service, if there is no record of any ailment at the time of enrollment into the military Service, we see no reason not to allow the prayer of the applicant with regard to the aforesaid disability.

4. Furthermore, in accordance with the judgment of Hon'ble Supreme Court in Commander Rakesh Pande Vs. UOI & Ors. [Civil. Appeal No. (s) 5970/2019], we find that the issue pertaining to grant of disability pension for DM-II as well as the question of disabilities of permanent nature to be deemed to have been assessed for life, has been settled.

5. As far as reliance of the respondents on the order dated 11.09.2023 in OA 121/2021, AFT (RB, Chennai) titled

*Ex Sub M Vijaykannan* Vs. *UOI & Ors.* is concerned, the said issue has been adequately settled by the judgement of the Principal Bench of this Tribunal in OA 2176/2019 *Ex JWO Krishan Kumar Tyagi* Vs. *UOI & Ors.* wherein it held that by virtue of the fact that the said judgment did not consider the judgment rendered in *Ex. Power Satyaveer Singh* [C.A. 7368/2011] as has been upheld by the Hon'ble Supreme Court vide the verdict in *UOI & Anr* Vs. *Rajbir Singh* [Civil Appeal 2904/2011; Date of Decision: 13.02.2015] nor the judgement of Hon'ble Supreme Court in *Commander Rakesh Pande* Vs. *UOI & Ors.*, [Civil Appeal 5970/2019; Date of Decision: 28.11.2019] wherein Hon'ble Supreme Court has upheld the judgement of this Tribunal in *Cdr Rakesh Pande* Vs. *UOI & Ors.*, [OA 1532/2016 AFT (PB), New Delhi; Date of Decision: 06.02.2019] for grant of disability pension for the disability of Diabetes Mellitus, and therefore, in our considered view, the decision in *Ex Sub M Vijaykannan* Vs. *Union of India & Ors* (supra) is limited to the facts of that case, and cannot be held to be a binding precedent.

6. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the

applicant @ 20% for life which be rounded off to 50% for life from the date of retirement, i.e. 31.01.2023 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 disposed of.

Pronounced in the open Court on <sup>27</sup> day of September 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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