

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

106.

OA 3653/2023 WITH MA 4951/2024

Ex POA (S&S) Abdul Rahim Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ved Prakash, Advocate
For Respondents : Mr. Sudhir Kumar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
25.11.2024

MA 4951/2024

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 3653/2023

3. 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 the Impugned Order No.
PEN/600/D/LRDOI:01/2023/217543T dated
15.12.2022.*

(b) Direct respondents to grant disability element of pension duly rounded off to 50% w.e.f his date of discharge.

OA 3653/2023 WITH MA 4951/2024
Ex POA (S&S) Abdul Rahim

Page 1 of 3

(c) *Direct respondents to pay the due arrears of disability element of pension with interest @12% p.a from the date of retirement with all the consequential benefits.*

(d) *Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents."*

4. The applicant was enrolled into the Indian Navy on 25.01.2008 and discharged from service on 31.01.2023. The applicant was examined by a duly constituted RMB on 09.05.2022, which held his disability of Primary Hypertension @ 30% for life while it was held that the disability was neither attributable to nor aggravated by service. 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. 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., 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, 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 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

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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