

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

OA 38/2021 WITH MA 44/2021

Ex MWO Gobinda Chandra Adhikary ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. D.K. Sharma, Advocate
For Respondents : Mr. Rajeev Kumar, Advocate

CORAM :

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

ORDER

MA 44/2021

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, the applicant has filed this application seeking grant of disability pension.

4. The applicant was enrolled in the Indian Air Force on 20.01.1967 and discharged from service on 31.01.2005. The applicant submits that for the purpose of Essential

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%.

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 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 Essential Hypertension, which has been assessed by the competent Medical Board @ 30%.

6. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement i.e. 31.01.2005 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, the arrears shall be restricted to three years prior to the date of filing of OA (11.12.2020) keeping in view the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649].

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 ^{HW} 25 day of October, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Akc