

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

124.

OA 3866/2023 WITH MA 5138/2023

JWO Naresh Chand Dabral (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Kritendra Tiwari, Advocate
For Respondents : Mr. Arvind Kumar, Advocate

CORAM

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

ORDER
09.10.2024

MA 5138/2023

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 of the Armed Forces Tribunal Act 2007, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

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JWO Naresh Chand Daral (Retd)

(a) Quash and set aside the impugned letter dated 22 May, 2018.

(b) Direct the respondents to grant the disability pension @50% after rounding off from 30% for life to the applicant with effect from 01.08.2018, i.e. the date of discharge from service with interest @12% pa. till final payment is made.

4. The applicant was enrolled in the Indian Air Force on 10.07.1995 and discharged from Air Force Service on 31.07.2018 after rendering 23 years and 20 days of regular service. 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 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 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., **31.07.2018** 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 will be restricted to three years from the date of filing of this OA, i.e., **01.12.2023** in keeping with the law laid down in the case of *Union of India and others Vs. Tarsem Singh* [(2008) 8 SCC 648].

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.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps