

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

117.

OA 3998/2023

Lt Col Ajay Kumar (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Indra Sen Singh and  
Mr. Nasir Mohd, Advocate  
For Respondents : Mr. Anil Gautam Sr CGSC

CORAM

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

ORDER  
15.10.2024

OA 3998/2023

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) Set aside the order dated 25.09.2023, whereby the Applicant's claim for the disability element of pension has been arbitrarily rejected by the Respondents;*

*b) Direct the Respondents to pay disability element of pension on account of (I) 'PRIMARY-HYPERTENSION ASSESSED @30% FOR LIFE AND (II) 'AUTO IMMUNE HYPOTHYROIDISM ASSESSED @15% FOR LIFE to the Applicant at the rate of 50% (40.5% rounded off to 50%) with effect from 25.02.2023 (AN) thereby granting the benefit of rounding off/ broad-banding policy of the Govt.;*

*c) Direct the Respondents to pay arrears of disability element of pension, after calculating the same at the rate of 50% with effect from 25.02.2023 (AN), with interest at the rate of 10% per annum until the date of actual payment; and*

*d) Issue such other order(s)/direction(s) as may be deemed appropriate in the facts and circumstances of the case.*

4. The applicant was commissioned in the Indian Army on 26.02.2009 and released on 25.02.2023. 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.

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 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%. So far as the claim of the applicant for grant of disability pension with regard to Auto Immune Hypothyroidism is concerned, it is assessed @ 15% for life by the Release Medical Board and the same do not fall within the ambit of 20% or more and therefore, rejected.

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 release i.e., 25.02.2023 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. However, as the applicant has approached the Tribunal after a considerable delay, the arrears be restricted to three years prior to the date of filing of OA i.e. 11.04.2023.

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.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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