

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

105.

OA 4152/2023 WITH MA 5447/2023

Sgt Ajit Kumar Srivastava (Retd) Applicant
Versus Respondents
Union of India & Ors.

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
18.10.2024

MA 5447/2023

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648], the MA is allowed condoning the delay in filing the OA.

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2. 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:

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“(a) Quash and set aside the impugned letter dated 20.10.2023;

(b) Direct the respondents to grant disability pension @50% after rounding off from 30% for life to the applicant with effect from 14 Aug 2017, i.e. the next date of discharge from service with interest @12% p.a. till final payment is made.

3. The applicant was enrolled into the Indian Air Force on 15.11.1997 and discharged from service on 30.11.2017. The applicant was examined by a duly constituted RMB on 03.02.2017, which held his disability of Primary Hypertension @ 30% for life and 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.

4. 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%.

5. 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., 30.11.2017, 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. 19.12.2023, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648].

6. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% for the disability of Primary Hypertension 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.

7. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps