

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

38.

OA 502/2023 WITH MA 748/2023

Cdr Pyare Lal (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Shakti Chand Jaidwal, Advocate  
For Respondents : Mr. Satya Ranjan Swain, Advocate

CORAM

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

ORDER  
18.04.2024

MA 748/2023

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.

OA 502/2023

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:

*“(a) Set aside the impugned order dated 02 Feb 2023 passed by the Respondents, rejecting first appeal of the applicant for grant of disability pension as time-barred.*

*“(b) Direct the Respondents to treat Applicant’s disability, namely “PRIMARY HYPERTENSION” as “Aggravated by*

*Stress and Strain of Service” as per findings of the Initial Medical Board;*

*(c) Direct the Respondents to grant disability pension to the Applicant @ 30% for life w.e.f. 01.02.2014, as his disablement is assessed @ 30% for life by the RMB;*

*(d) Direct the Respondents to pay disability pension to the Applicant enhanced rate of 50% for life w.e.f. 01.02.2014 by broad-banding his disability from 30% to 50% as per Govt. Policy dated 31.01.2001;*

*(e) Direct the Respondents to pay to the Applicant an interest @ 10% p.a. on the arrears of disability pension w.e.f. 01.02.2014 till the actual payment and/or;*

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

3. The applicant was enrolled into the Indian Navy on 26.06.1978 and discharged from service on 31.01.2014. The applicant was examined by a duly constituted RMB on 30.10.2013, 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% as is evident from the medical records. The composite disability for the ailment has been assessed at 30%.

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., 31.01.2014, 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 or the date of applicant's retirement/discharge, whichever is lesser, 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 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.

7. No order as to costs.

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[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

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