

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

73.

OA 590/2023 WITH MA 834/2024

Ex Sub Dilipa Kumar Maharana	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Randhir Singh Kalkal, Advocate
For Respondents	:	Ms. Jyotsna Kaushik, Advocate

CORAM

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

ORDER
27.02.2024

MA 834/2024

Counter affidavit has been filed. There being delay in filing the same, this application has been filed seeking condonation of delay. Delay is condoned. Counter affidavit is taken on record. MA stands disposed of.

OA 590/2023

2. 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:

“(a). Quashed the letter/order dated 30.12.2022 (ANNEXURE A-1), letter dated 27.05.2020 (ANNEXURE A-6) and letter dated 28.05.2019 (ANNEXURE A-4).

(b) Direct to Respondents to grant the disability element with *Rounding Off benefits of Disability element @30% to @50% with effect from 01.05.2019 (w.e.f. date of retirement) for life to the applicant, alongwith 10% annual interest till the payment be made, for which the applicant deserves.*

(c) Issue any other appropriate order or direction which this Hon'ble Tribunal may be deem fit and proper in facts and circumstances of the case."

3. In this case, the applicant was enrolled in Indian Army on 02.04.1991 and on completion of service was discharged on 30.04.2019. Even though the applicant is found to be suffering from the following two ailments viz. (i) Primary Hypertension and (ii) Dyslipidemia, release medical board dated 01st May, 2019 held his disability (a) Primary Hypertension @ 30% or life and (b) Dyslipidemia @ NIL for life, the composite assessment of disability for the two ailments have been assessed at 30%. During the course of hearing today, learned counsel for the applicant made a fair statement that for the present in this application, the applicant would only be praying for disability pension pertaining to one ailment i.e., Primary Hypertension and he gives up his claim for all other ailments.

4. 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 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 competent Medical Board @ 30%.

6. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% with effect from the date of his discharge. All other claims stand rejected.

7. The respondents are directed 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 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 649]*.

8. 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.

9. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Priya