

COURT NO. 1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
OA 611/2022 WITH MA 768/2022

HFO (MWO) Prem Lal Pandey MT Fit (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Rakesh Kumar Yadav, Advocate  
For Respondents : Ms. T Murugesan, Advocate

CORAM

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

ORDER

MA 768/2022

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.

OA 611/2022

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:

(a) To set aside the impugned order/letter No. RO/2703/285882/01/06/P&W(DP/RMB) dated 30 Mar 2006.

(b) To issue necessary orders to the respondents to consider the applicant for 50% disability pension (rounding off from 30% to 50%) as above said disability onset and caused to the applicant, due to strain and stressful duties, during and while meeting service exigencies, field area, operational preparedness, working conditions/ Environment and other secondary duties, which are wholly attributed to service, in terms of Regulation for the IAF 1961.

(c) To consider the facts and circumstances of the case in the light of above discussed Rules and Regulations as well as settled principles of law enshrined by the Hon'ble Supreme Court in *Dharamvir Singh Vs Union of India & Ors. (supra)* and reiterated in *Union of India & Anr. Vs Rajbir Singh (supra)* and *Union of India Vs Angad Singh Titaria* and award disability pension to the applicant for 50% (which is rounded off from 30% to 50%), in the cases of *K.J.S Buttar (supra)* and *Ram Avtar (supra)*, the applicant is entitled to the benefit of rounding off of disability pension to 50% disability from the date of his discharge, i.e., 31.01.2006, along with 10% p.a. interest on the arrears, till the time of actual disbursement of the same.

(d) To award Rs. 50,000 towards cost of litigation, mental agony and harassment to the applicant.

2. The applicant was enrolled in the Indian Air Force on 05.10.1967 and discharged from Air Force Service on 31.01.2006 after rendering 38 years and 118 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 release medical records.

3. 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%.

4. 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., 31.01.2006 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, in keeping with the law laid down in the case of Union of India and others Vs. Tarsem Singh [2008 (8)SCC 649] the arrears shall be restricted to three years prior to the date of filing of OA. [Date of filing of OA: 16.03.2022]. The arrears shall be disbursed to the applicant within four months of receipt of this order failing which it shall earn interest @ 6% p.a. till the actual date of payment.

5. 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.

6. No order as to costs.

7. Pending miscellaneous application, if any, stands disposed of.

Pronounced in the open Court on 6<sup>H</sup> day of August, 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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

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