

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

76.

OA 653/2018

Col Kanwar Randhawa (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. V S Kadian, Advocate  
For Respondents : Mr. Anil Gautam, Sr CGSC

CORAM

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

ORDER  
14.03.2024

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) Quash and set aside the impugned letter No.  
B/40431/Misc/2017/AG/PS-4 (Imp-I) dated 28.12.2017  
and direct respondents to treat the disability PRIMARY  
HYPERTENSION as attributable to or aggravated by  
military service and grant hi disability element of pension  
@75% by granting benefit of broad banding from 60%  
(composite) i.e. 30% for PRIMARY HYPERTENSION + 40%  
for disability Type-2 Diabetes Mellitus and CAD (IWMI)  
SVD for which he is already getting disability element.  
And/or

(b) Direct respondents to pay the due arrears of disability  
element of pension with interest @12% p.a. from the date  
of retirement with all the consequential benefits.

(c) Any other relief which the Hon'ble Tribunal may deem  
fit and proper in the fact and circumstances of the case.”

2. The applicant is found to be suffering from three ailments viz. (i) Primary Hypertension, (ii) Type-2 Diabetes mellitus and (iii) CAD, the composite disability for the three ailments have been assessed at 60%. During the course of hearing today, the learned counsel for the applicant made a fair statement that for the present in this application, the applicant would only be pressing for disability pension pertaining to one ailment i.e., Primary Hypertension and he gives up his claim for all other ailments.

3. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records.

4. The disability of Primary Hypertension has been considered as aggravated by military service vide RMB dated 31<sup>st</sup> October, 2016 and the percentage of the disability is 30%. Since, it satisfies both the conditions as per Regulation 53 of Pension Regulations for Army, 1961 which read as under:-

“53. (1) An officer retired on completion of tenure or on completion of terms of engagement or on attaining the age of 50 years (irrespective of their period of engagement), if found suffering from a disability attributable to or aggravated by military Service and recorded by service Medical Authorities, shall be deemed to have been invalided out of service and shall be

granted disability pension from the date of retirement, if the accepted degree of disability is 20 percent or more, and service element if the degree of disability is less than 20 per cent. The retiring pension/retiring gratuity, if already sanctioned and paid, shall be adjusted against the disability pension/service element, as the case may be.

(2) The disability element referred to in clause (1) above shall be assessed on the accepted degree of disablement at the time of retirement/discharge on the basis of the rank held on the date on which the wound/injury was sustained or in the case of disease on the date of first removal from duty on account of that disease.”

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% and aggravated by military service.

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

6. 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.

7. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant. The arrears shall be disbursed to the applicant within four months from the date of receipt of a copy of this order, failing which, these shall carry interest @ 6% per annum till the date of payment.

8. No order as to costs.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

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