

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

80.

OA 784/2023 WITH MA 1182/2023 AND MA 3917/2024

HFL Badruddin Khan (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Kritendra Tiwari, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

CORAM

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

ORDER
18.09.2024

MA 1182/2023

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.

MA 3917/2024

3. Counter affidavit has been filed. There being some delay in filing the counter affidavit, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

4. MA stands disposed of.

OA 784/2023
HFL Badruddin Khan (Retd)

OA 784/2023

5. 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 orders No. Air HQ/23401/204/4/17080/E/PS dated 02 July 2019 and Air HQ/99798/5/410/2019/671720/DP/AV-III (Appeals) dated 15 October, 2020.

(b) Direct the respondents to grant disability pension @50% after rounding off composite disability from 40% for lifelong to the applicant with effect from 01 Nov 2017, i.e. after the date of discharge from service with interest @12% p.a. till final payment is made.

2. The applicant was enrolled in the Indian Air Force on 30.06.1980 and discharged from Air Force Service on 31.10.2017 after rendering 37 years 04 months and 01 day of regular service. During the course of hearing, learned counsel for the applicant made a fair statement that 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. The applicant submits that for the purpose of Primary Hypertension, the disability has been assessed @ 30% as is evident from the medical records.

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 Release Medical Board @30%.

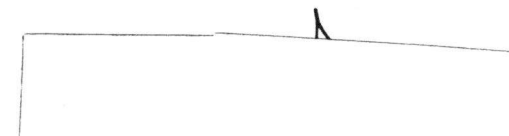
5. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant for Primary Hypertension @ 30% for life which be rounded off to 50% for life from the date of retirement, i.e., 31.10.2017 in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012) decided on 10.12.2014. However, 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: 20.03.2023]. 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.

6. 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.

7. No order as to costs.

8. Pending miscellaneous application, if any, stands closed.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


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

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