

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

90.

RA 65/2023 WITH MA 5340/2023 IN OA 1119/2022

Gnr/GD Dependra Pawar (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Manoj Kr Gupta, Advocate
For Respondents : Mr. Rajan Khosla, Advocate

CORAM

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

ORDER
07.02.2024

MA 5340/2023

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 (2009(1) AISLJ 371), the delay in filing the RA is condoned.

2. MA stands disposed of.

RA 65/2023

3. Having heard learned counsel for the parties, we find that in the OA 1119/2022 filed by the applicant the following prayers were made:-

8. (a) To direct the respondents to grant disability pension for life by declaring the disability as attributable to military service in terms of judgements of Hon'ble Apex Court in Sukhvinder Singh (Supra), relied upon by this AFT in catena of orders

including Orders placed at Annexure -A4 and A6 and further broad banded to 50% as per MoD policy dated 31.01.2001.

(b) Set aside the respondents rejection orders (annex-A1) and issue an order or direction of appropriate nature to grant invalid pension for life (If not eligible for Disability Pension) in terms of Hon'ble Apex Court judgements (supra) including Apex Court in Sukhvinder Singh (Supra).

4. While deciding the prayer for grant of disability pension this Tribunal found that the ailment of the applicant is neither attributable to nor aggravated by Military Service and, therefore, he was not entitled to the disability pension and rejected his application. However while doing so, this Tribunal did not advert to consider the question of grant of Invalid Pension as prayed for in para 8(b) which was in the nature of an alternate relief seeking Invalid Pension on account of the fact that because of the ailment even if the ailment was considered neither attributable to nor aggravated by Military Service, as he was invalided out of service, he is entitled to the Invalid Pension. This aspect of the matter, even though prayed, has not been considered by us in the order passed on 4th October, 2023 while dismissing the OA.

5. Considering the same, we find that there is an error apparent on the face of the record and, therefore, we allow this review application and direct to restore the OA to its original file only for the purpose of considering prayer 8(b).

6. In view of the above, RA stands disposed of.

OA 1119/2022

7. List the matter on 11th March, 2024.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Ps
RA 65/2023