

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

OA 3696/2023

Cdr M K Saini (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Ved Prakash, Advocate for  
Mr. Shakti Chand Jaidwal, Advocate  
For Respondents : Mr. Neeraj, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

This OA has been filed by the applicant seeking grant of disability pension for the disability of Primary Hypertension (ICD-401), which is a permanent ailment. The applicant contends that he is entitled to the benefit of disability pension for life and that the restriction of this benefit to a period of only two years, based on the recommendation of the Release Medical Board (RMB), is unsustainable in law.

2. The applicant was commissioned into the Indian Navy on 14.08.1972. After completing training and fulfilling all formalities, he served diligently until his retirement on 30.04.2002. In December 1994, he was diagnosed with

Primary Hypertension (ICD-401), and his medical category was downgraded to S2A2 (P) PMT. Despite the ailment, the applicant continued to serve until 12.04.2002, when he was subjected to a Release Medical Board (RMB) at INS Angre, Mumbai. The Medical Board assessed his disability with Primary Hypertension (ICD-401), @30% for a period of two years and recorded that the disability was aggravated by military service.

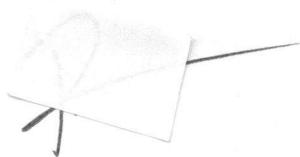
3. Upon retirement, the applicant was granted service pension. However, his initial claim for disability pension was rejected by the respondents on 21.10.2003. Thereafter, the applicant filed his first appeal on 24.08.2017, which was rejected on 12.10.2017 as time barred. On 23.07.2018, the applicant subsequently filed OA No. 1297/2018 before this Tribunal, which was disposed of on 02.08.2018 with a direction to the respondents to consider the applicant's appeal on merits, without considering the limitation period and to pass a speaking order within four months.

4. Since no action was taken within the stipulated time, the applicant filed OA No. 473/2019 on 25.03.2019 which was allowed by this Tribunal vide order dated 25.05.2023 granting

him disability pension but only for two years instead of for life. Dissatisfied with the time restriction, the applicant, relying on the judgment of the Hon'ble Supreme Court in Commander Rakesh Pande vs Union of India & Ors. [Civil Appeal No. 5970/2019], filed a review application, i.e., RA No. 29/2023), which was permitted to be withdrawn with liberty to file a fresh OA.

5. Following the liberty granted, the applicant filed application for modification of the order dated 25.05.2023 passed in OA No. 473/2019 vide MA No. 3753/2023 seeking direction for conducting his RMB. However, the Tribunal vide order dated 05.10.2023, disposed of the said MA, and directed the applicant to file application under Section 14 of the AFT Act, if any grievance remained. Consequently, the present OA was filed on 16.11.2023 seeking directions to the respondents to conduct his Re- Assessment Medical Board.

6. The primary contention of the applicant in the present OA is that the assessment of Primary Hypertension for a limited period of two years is contrary to the settled law. The applicant submits that Primary Hypertension is a permanent ailment and



should therefore be considered for disability pension for life. He relies on the decision of the Hon'ble Supreme Court in Commander Rakesh Pande (supra) and also on various decisions of this Tribunal, including OA No. 1143/2017 titled Col Saran Jit Singh Sahi (Retd), OA No. 473/2019 titled Cdr M. K. Saini (Retd) decided on 25.05.2023, and OA No.1701/2018 with MA No. 1844/2018 titled Lt Col V.G. Kulkarni (Retd) and OA No. 1404/2017 with MA 1047/2017 titled Ex MCEAR-II Satyavir Singh

7. In Commander Rakesh Pande (supra), the Hon'ble Supreme Court dealt with the issue of assessment of disability for a fixed duration despite the condition being permanent in nature. Referring to the Government of India's letter dated 07.02.2001 (Para 7), the Court held that when a disability is found to be permanent, the assessment must also be permanent and not limited to any specific duration.

8. This Tribunal has consistently held that Primary Hypertension is a permanent ailment. In the case of Lt Col V.G. Kulkarni (Retd) (supra) the Tribunal held that even where the disability is assessed for two years, if the condition is permanent,

the benefit must be granted for life. Similarly, in the case of Ex MCEAR-II Satyavir Singh (supra), Primary Hypertension assessed at 25% for two years was held to be a permanent condition, warranting life-long benefits.

9. In the present OA, the RMB proceedings dated 12.04.2002 clearly indicate that the applicant was suffering from Primary Hypertension which was assessed @30%. Though the disability was held as not attributable, it was found to be aggravated by military service. The Medical Board, however, restricted the duration of the disability to two years.

10. This Tribunal finds that there is no justification to limit the duration of a permanent ailment such as Primary Hypertension, especially when it has been held to be aggravated by military service. As has been held in the case of Ex MCEAR-II Satyavir Singh (supra) and several other cases, Primary Hypertension is incurable and managed only through continuous medication. Hence, the condition is permanent.

11. Therefore, in light of the consistent legal position adopted by the Hon'ble Supreme Court and this Tribunal, the applicant is entitled to disability pension for Primary Hypertension @30%,

to be rounded off to 50% as per the law laid down in Ram Avtar vs Union of India & Ors. [Civil Appeal No. 418/2012], for life.

12. Accordingly, this OA is allowed. The respondents are directed to:

- a) Grant the applicant disability pension for Primary Hypertension assessed @30%, rounded off to 50%, for life, with arrears for a period of three years preceding the date of filing of the OA No.3696/2023. (OA filed on 16.11.2023).
- b) Release all consequential arrears within four months from the date of receipt of this order and in case of delay in payment beyond four months, interest @8% per annum shall be payable on the accrued amount.

13. No order as to costs.

14. Miscellaneous application(s), if any, stands closed.

Pronounced in the open Court on this day of 28<sup>th</sup> July 2025.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[RASIKA CHAUBE]  
MEMBER (A)

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