

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

OA 4403/2024

Ex Hav Vinod Kumar Singh (Retd.)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. Ajit kakkar, Advocate

For Respondents : Ms. Jyotsna Kaushik, Advocate

CORAM :

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

ORDER

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application and the reliefs claimed in Para 8 read as under:

- “(a) To direct the respondents to bring on record all service and medical records of the applicant.***
- (b) To set aside/quash the Impugned letter/order dated 01.03.2024, 08.08.2024 and 03.09.2024.***
- (c) To grant disability pension to the applicant from the date of release (31.12.2023) w.e.f. 01.01.2024.***
- (d) To direct the respondents to grant broad banding of the disability pension w.e.f. 01.01.2024.***
- (e) To direct the respondents to issue a corrigendum PPO pertaining to the disability pension and broad banding of the disability pension of the Applicant.***
- (f) To direct the respondents to pay arrears of disability pension and broad banded disability pension along with interest @12% w.e.f. 01.01.2024.***
- (c) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.”***

BRIEF FACTS

2. The applicant was enrolled in Indian Army on 01.10.1998 and discharged from service on 31.12.2023(AN) "On medical grounds due to drop in criteria before fulfilling terms of engagement" under Rule 13(3) III (iii) (a) (i) of Army Rules, after rendering total 25 years and 03 months of regular service. The applicant was found fit to be released in low medical category S1H1A1P2(P)E1, for the disability of "Primary Hypertension (Old) assessed @ 05%. The Release Medical Board (RMB) held on 23.12.2023 assessed the applicant's disability 'Primary Hypertension @ 05% for life however, net qualifying percentage for disability was nil for life as the disability was adjudged as neither attributable nor aggravated to military service

3. On adjudication, the initial claim of the applicant for grant of the disability pension was rejected by the competent authority considering the disabilities as neither attributable to nor aggravated by military service and the said decision was communicated to the applicant vide letter No. 3191563/Appeal/DP/JR dated 01.03.2024 with an

advice that in case, the applicant is not satisfied with the decision of the respondents, he may prefer an appeal to the Appellate Committee within six months from the date of receipt of the above mentioned letter. The first appeal dated 22.03.2024 preferred by the applicant was rejected by the appellate authority and was communicated to the applicant vide letter No. 3191563/DP/JR dated 03.09.2024 with an advice to prefer Second Appeal to Second Appellate Committee against rejection of First Appeal within period of six months from the date of receipt of said letter, if not satisfied. However, the applicant chose not to prefer the same. Aggrieved by the rejection of the disability pension the applicant filed this instant OA on 07.04.2025. In the interest of justice, it is considered appropriate to take up the present OA for consideration, in terms of Section 21(1) of the AFT Act, 2007.

CONTENTION OF THE PARTIES

4. The learned counsel for the applicant submitted that the applicant joined Indian Army on 01.10.1998 and was discharged from the service on 31.12.2023 after rendering total 25 years and 03 months of regular service of long

service in the Army during which he suffered with the said disability.

5. The learned counsel for the applicant submitted that the applicant, at the time of joining the service, was declared fully fit mentally and physically and no note of disability was made in his medical record at the time of entering the service and any medical disability contracted by him during the course of his service should be treated as being attributable and aggravated by the stress and strain of his service. The learned counsel explained about the stressful and challenging conditions of service undertaken by the applicant during his service tenure. The learned counsel submitted that the applicant was posted at various stations and had served in tough and different weather and environmental conditions in his career and discharged all assigned duties with utmost dedication in a well-disciplined and professional manner.

6. The learned counsel for the applicant submitted that in addition to conditions of service, dietary compulsions of military life including frequent changes in weather and

social environment at different geographical locations were the main causes of stress and strain on the applicant.

7. The learned counsel for the applicant placed reliance on certain judgments of the Hon'ble Supreme Court including C.A. No. 4949/2013 titled **Dharamvir vs. UoI**, CA No. 418/2014 titled **Union of India vs. Ram Avtar, UoI vs. Rajbir Singh** (2015) 12 SCC 264, **Sukhwinder Singh vs. UoI & Ors.** (2014) 14 SSC 364, **UoI vs. Angad Singh Titaria** (2015) 12 SCC 257 etc., wherein similarly situated personnel were granted relief.

8. The learned counsel for the applicant also placed reliance on the orders of the Armed Forces Tribunal (PB) New Delhi, in OA 617/2023 titled as **Ex Nb Sub Sher singh Airy v. UOI** and **Ex Nk Jagbir Singh Dagar v. UoI** wherein similarly situated personnel were granted relief.

9. *Per contra* the learned counsel for the respondents submits that the Primary Hypertension disability is basically a lifestyle related disorder and in the case of the applicant it had its onset in peace station where there has been no close time association of military service with onset and

progression of the disability and hence, the disability is NANA as per para 43 of GMO (Military Pension) 2023.

10. The learned counsel for the respondents submitted that Regulation 173 of the Pension Regulations for the Army, 1961 (Part-1) outlines the conditions for granting a disability pension to personnel who are invalided out of service due to a disability. Specifically, it states to the effect:-

“Unless otherwise specifically provided, a disability pension may be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by military service and is assessed @20% or over.”

However, in the instant case, the disability of the applicant has been assessed @05% for life, the disability pension for the disability “Primary Hypertension” is not entitled to the applicant as he is ineligible for the same.

11. The learned counsel for the respondents also submitted that the applicant was found overweight at the time of onset of the disease.

12. The learned counsel for the respondents submits that the disability of Hypertension of the applicant is directly related to his overweight condition.

ANALYSIS

13. It is a fact that the applicant vide RMB dated 27.10.2023 has been assessed with the disability of Primary Hypertension @ 05% which has been attributed as NANA by the RMB.

14. In the case in hand, since the RMB has assessed the disability of the applicant at 05% (less than 20%) for life, with regard to the issue relating to entitlement of disability pension when the assessment of a disability by the RMB is less than 20% (05%) we may refer to the judgment dated 11.12.2019 of the Hon'ble Supreme Court in ***Union of India & Ors. Vs. Wing Commander S.P. Rathore [Civil Appeal No. 10870/2018]***, wherein it was held that the disability element is not admissible if the disability is less than 20%, and that the question of rounding-off would not apply if the disability is less than 20%. If a person is not entitled to the disability pension, there would be no question of rounding off. Relevant paras of the said judgment read as under:

"1. The short question involved in this appeal filed by the Union of India is whether disability pension is at all payable in case of a Air Force Officer who superannuated from service in the natural course

and whose disability is less than 20%. xxx xxx xxx
8. This Court in *Ram Avtar (supra)*, while approving the judgment of the Armed Forces Tribunal only held that the principle of rounding off as envisaged in Para 7.2 referred to herein above would be applicable even to those who superannuated under Para 8.2. The Court did not deal with the issue of entitlement to disability pension under the Regulations of Para 8.2. 9. As pointed out above, both Regulation 37(a) and Para 8.2 clearly provide that the disability element is not admissible if the disability is less than 20%. In that view of the matter, the question of rounding off would not apply if the disability is less than 20%. If a person is not entitled to the disability pension, there would be no question of rounding off.

10. The Armed Forces Tribunal („AFT”), in our opinion, put the cart before the horse. It applied the principles of rounding off without determining whether the petitioner/ applicant before it would be entitled to disability pension at all. 11. In view of the provisions referred to above, we are clearly of the view that the original petitioner/applicant before the AFT is not entitled to disability pension. Therefore, the question of applying the provisions of Para 7.2 would not arise in his case. In this view of the matter, we set aside the order of the AFT and consequently, the original application filed by the Respondent before the AFT shall stand dismissed.

The appeal is allowed accordingly.”

15. The Hon’ble Supreme Court in its judgment dated 04.09.2019 rendered in the case of **Bachchan Prasad Vs. Union of India & Ors.** [Civil Appeal No. 2259 of 2012] also held that an individual is not entitled to

disability element if the disability is less than 20%.

Relevant portions of the said judgment read as under:

“After examining the material on record and appreciating the submissions made on behalf of the parties, we are unable to agree with the submissions made by the learned Additional Solicitor General that the disability of the appellant is not attributable to Air Force Service. The appellant worked in the Air Force for a period of 30 years. He was working as a flight Engineer and was travelling on non pressurized aircrafts. Therefore, it cannot be said that his health problem is not attributable to Air Force service. However, we cannot find fault with the opinion of the Medical Board that the disability is less than 20%. The appellant is not entitled for disability element, as his disability is less than 20%.”

16. Thus, in view of the circumstances of the instant matter, the disability of applicant 'Primary Hypertension assessed @ 05% for life which is below 20% and is conceded as NANA by the RMB, it does not fulfill the twin criteria as per Rule 173 of the Pension Regulations for the Army, 1961 (Part-I) and hence is not admissible.

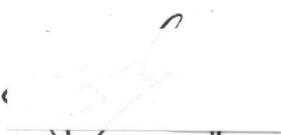
CONCLUSION

17. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is not entitled for grant of disability element of pension. The OA stands dismissed being devoid of merits.

18. There is no order as to costs.

Pronounced in open Court on this 29 day of July,
2025.


(JUSTICE RAJENDRA MENON)
CHAIRPERSON


(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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