

**COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 1197/2020 WITH MA 1387/2020

EX WO Dilip Kumar Deka **Applicant**

VERSUS

Union of India and Ors. **Respondents**

For Applicant : Mr. Praveen Kumar, Advocate

For Respondents : Mr. Arvind Patel, Advocate

CORAM

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)

HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

MA 1387/2020

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in ***Union of India and others Vs. Tarsem Singh***[(2008) 8 SCC 648], the MA is allowed condoning the delay of 3525 days in filing the OA. The MA stands disposed of.

OA 1197/2020

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) Quash and set aside the impugned letters dated 11 Jun 2020.

(b) Direct respondents to grant disability pension @30% and rounding off the same to 50% for life to the applicant with effect from 06 Apr 2010 i.e. the date of discharge from service with interest @12% p.a. till final payment is made.

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

BRIEF FACTS

2. The applicant was enrolled in Indian Air Force on 17.11.1975 and was discharged from service on 05.03.2010 under the clause on “At his own request on transfer to pension establishment” after rendering 34 years and 109 days of regular service. The Release Medical Board not solely on medical grounds held on 24.02.2010 found that the applicant was in low medical category A4G2(P) for the disability of **‘Primary Hypertension’** @ 30% for life compositely assessed @30% for life while the net qualifying element for disability was recorded as NIL for life on account of disability being treated as neither attributable to nor aggravated by service.

3. On adjudication, AOC AFRO also upheld the recommendations of RMB and rejected the disability pension claim vide letter No. RO/3305/3A Med Cat(D) dated 04 Jun

2010. The decision was communicated to the applicant vide letter No. RO/2703/634134/10/P&W (DP/RMB) dated 10 Jun 2010, advising him to prefer an appeal before the Appellate Committee within six months from the date of receipt of the said letter.

4. The applicant did not prefer an appeal as advised vide letter No. RO/2703/634134/10/P&W (DP/RMB) dated 10 Jun 2010. He, however, submitted belated representations seeking grant of disability pension on 04.01.2020 and 28.02.2020 which was rejected by the respondents vide Air HQ/99798/5/TBS/634134/Appeal/AV-III dated 11 Jun 2020. Subsequently, the applicant has filed the present OA. In the interest of justice, thus, in terms of Section 21(2) of the AFT Act, 2007, it is considered appropriate to take up the present OA for consideration.

CONTENTIONS OF THE PARTIES

5. The learned counsel for the applicant submitted that the applicant was found medically fit as per the medical standards required for recruitment in the Armed Force at the time of enrolment. At the time of entry into service, the applicant

underwent a thorough medical examination conducted by Recruiting Medical Officers and when found fit by the Recruiting Medical Officers at the Recruitment/Selection Centre in all aspects, he was enrolled in the Indian Air Force. After successfully undergoing training, he was posted to different units of peace as well as field areas, in the course of active service/duties.

6. The learned counsel for the applicant further submitted that, in addition to the conditions of service, the applicant had to work on his trade duties and was made responsible to carry out the duties assigned to him, including hard areas staying alone, away from social and family life and he hardly got any time to properly take rest and relaxation, and he alone handled and carried out these very strenuous and stressful duties. He was detailed to work on his trade duties which require extra physical and mental stress at different locations which was a main cause of stress and strain on the applicant.

7. The learned counsel for the applicant further submitted that the disability of applicant i.e **Primary Hypertension** detected on 22.05.2006 at Nagpur, Maharashtra (Peace Station) was due to

stress and strain of working and he was under treatment at MH Kamptee. It is further contended that provisions governing the disability pensions are beneficial provisions and shall be liberally construed in the welfare of the personnel/applicant. Reliance in this regard is placed on the law laid down by the Hon'ble Supreme Court in the case of **Dharamvir Singh Vs Union of India & Others** (2013) 7 SCC 316, and in the case of **Union of India and others Vs. Rajbir Singh** (2015) 12 SCC 264, and catena of other orders of the Armed Forces Tribunal.

8. *Per contra*, the learned counsel for the respondents submitted that the applicant was initially diagnosed and placed in low medical category A4G4 (T-24) vide AFMSF-15 dated 29.05.2006, while posted at HQ MC, AF (Nagpur) and he was reviewed regularly for the disability. Subsequently, the applicant was placed in low medical category A4G4(P) for disability Primary Hypertension vide AFMSF-15 dated 26.04.2007.

9. The learned counsel for the respondents submitted that the ID i.e. 'Primary Hypertension' is basically a lifestyle related disorder and in the case of the applicant it had its onset in peace station on 22.05.2006 and there has been no close time

association of military service with onset and progression of the disability and hence, the disability is “Neither Attributable to Nor Aggravated by Military Service” as per Para 43 of Chapter VI of Guide to Medical Officers (Military Pension), 2008.

10. Learned counsel for the respondents contended that the applicant is not entitled to the relief claimed since the RMB, being an expert body, after a thorough examination of the applicant, found the disability as “Neither Attributable to Nor Aggravated by Military Service” on the ground that the said disability of the applicant is not connected with service. Thus the applicant is not entitled to disability pension and, therefore, the OA deserved to be dismissed.

ANALYSIS

11. We have heard learned counsel on both sides. We have also gone through the Release Medical Board proceedings as well as the records.

12. The present case is not a case of invalidation wherein the applicant will be granted disability pension. However, the present claim is limited to the entitlement to the disability element of the

pension, provided the disability is considered as attributable to or aggravated by military service.

13. It is not in dispute that the extent of disability of 'Primary Hypertension' has been assessed at 30% for life, which is more than the bare minimum for the grant of the disability element of pension. Accordingly, the issue which is to be considered now is *whether the disability suffered by the applicant is to be held attributable to and aggravated by military service or not?*

14. After going through the opinion of the medical Board in Part-V of the RMB proceedings, we have noted that the only reason for declaring the disease '**Primary Hypertension**' as NANA is that the disability is idiopathic and detected in peace area and has no close time association with stress or strain or dietary compulsions of field. However, on further scrutiny, it is observed that this disability was initially detected in 2006, i.e., after about thirty years of service. We are therefore of the considered opinion that the reasons given in RMB for declaring disease as NANA are very brief and cryptic in nature and do not adequately explain the denial of attributability.

15. We may also note that this Tribunal in a catena of cases under similar circumstances has granted relief to the applicants. Hence, we are inclined to give benefit of doubt to the applicant and are of the view that the disability of **“Primary Hypertension”** @ 30% is to be considered as aggravated by military service.

16. There is no gainsaying that the opinion of the Medical Board which is an expert body has to be given due weight and credence. But the opinion of the Medical Board cannot be read in isolation and has to be read in consonance with the Entitlement Rules for Casualty Pensionary Awards & General Rules of Guide to Medical Officer. A mere statement that onset of disease was during a peace posting is clearly insufficient to discharge this onus. In the present case, the applicant has served in the Indian Air Force for a total of 34 years and 109 days and the onset of the disability of ‘Primary Hypertension’ occurred on 22.05.2006 after thirty years of service, whilst he was posted in peace station.

17. The Tribunal has also observed in large number of cases that military services in peace stations also have their own pressure of rigorous military training and associated stress and strain, physically and mentally, of the service and the contention that there is no evidence of stress and strain of service in peace station should not be made a ground for the purpose of denying disability element of pension.

18. It may also be taken into consideration that the most of the personnel of the Armed Forces, during their service, work in the stressful and hostile environment, difficult weather conditions and under strict disciplinary norms. Moreover, there is no note made in the applicant's medical documents that he was suffering from any disease at the time of joining the service. There is no record to show that the applicant has suffered the disability due to hereditary or unhealthy lifestyle nor there is any family history placed on record. Further, on perusal of the medical records we find that the weight of the applicant is also within the permissible limit. In view of the settled law we are, therefore, of the considered view that the disability suffered by the applicant

has to be held to be attributable to and aggravated by the military service.

CONCLUSION

19. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is entitled for disability element of pension in respect of disability '**Primary Hypertension**'. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% for life rounded off to 50% for life with effect from the date of his discharge i.e. 05.13.2010, 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.

20. The respondents are thus directed to calculate, sanction and issue the necessary PPO to the applicant within a period of three months from the date of receipt of copy of this order. The amount of arrears however are directed to commence to run from a period of three years prior to the institution of the present OA, in terms of the verdict of the Hon'ble Supreme Court in **Union of India & Ors Vs Tarsem Singh** reported in 2008 8 SCC 648

which shall be paid by the respondents, failing which the applicant will be entitled for interest @ 6% p.a. from the date of receipt of copy of the order by the respondents.

21. There is no order as to costs.

Pronounced in the open Court on this 18th February,
2026.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)

/Yogita/

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HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

18.02.2026

Judgment in this matter has been pronounced today vide a separate signed order. At the time of hearing, certain original documents were kept by us for perusal. Since the judgment in the matter has now been pronounced, these documents be returned to the respondents after taking due acknowledgement.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)

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