



2024:DHC:9498-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 05.12.2024***

+ W.P.(C) 16189/2024 & CM APPL. 68066/2024

UNION OF INDIA & ORS.

.....Petitioners

Through: Ms. Avshreya Pratap Singh
Rudy, SPC along with
Major Anish Muralidhar, Army.

versus

COL BHASKAR DEV BURMAN RETD

.....Respondent

Through: Mr. B.L. Verma, Adv.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (Oral)**

1. This petition has been filed challenging the order dated 01.02.2024 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi, in Original Application No. 252/2019, allowing the said Original Application filed by the respondent herein with the following direction:

“7. Consequently, the OA is allowed and the impugned order rejecting the claim of the applicant for disability pension is set aside and hold that the applicant is entitled to disability element of pension from the date of his discharge @ 30% for life, which is to be broad-banded to 50% in light of the judgment of the Hon'ble Supreme Court in Union of India and Ors. Vs. Ram Avtar [Civil Appeal 418 of 2012] decided on 10th December, 2014. However, as the applicant has approached the Tribunal after a considerable delay, in view of the law laid down in Tarsem Singh's case (supra), arrears will be restricted to three years prior to the date of filing of this OS i.e.



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05.02.2019.”

2. It is the case of the petitioners that the learned Tribunal has wrongly placed reliance on the Judgment of the Supreme Court in ***Dharamvir Singh v. Union of India and Others***, (2013) 7 SCC 316, in allowing the Original Application and drawing a presumption in favour of the respondent.
3. We do not find any merit in the above contention of the learned counsel appearing for the petitioners.
4. The learned counsel for the respondent has drawn our attention to the Release Medical Board proceedings, wherein the Board of Doctors has opined that the disability, namely, Primary Hypertension (ICD No.10), suffered by the respondent was aggravated by service. The disability has been assessed at 30%.
5. In view of such a report, no infirmity can be found in the learned Tribunal directing that the respondent should be paid a disability pension by broad-banding the disability to 50% in light of the petitioner's own circular and the Judgment of the Supreme Court in ***Union of India v. Ram Avtar***, 2014 SCC OnLine SC 1761.
6. We accordingly dismiss the present petition and the pending application(s).

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 5, 2024/rv/Vs

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