

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

47.

OA 1896/2023 with MA 2729/2023

Smt Shanti Devi Wd/o

Hav Mam Chand Singh Tomar (Retd) Applicant

Versus

Union of India & Ors. Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate

For Respondents : Mr. Arvind Kumar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R

11.07.2024

Seeking last rank pension in the rank of Havildar from which her late husband Hav Mam Chand Singh Tomar retired, the applicant has filed this application. The benefit of the last rank pension is sought based on the settled principles of law as laid down by this Tribunal in the case of JWO P. Gopalakrishnan v. Union of India and others (O.A No. 62 of 2014 decided on 13th February 2015). However, notices were issued to the respondents and they were granted time to file the counter affidavit. When the counter affidavit was not filed by 08.04.2024, the following orders were passed by learned Principal Registrar:

“Counter affidavit has not been filed till date despite sufficient opportunities.

2. The learned counsel for the respondents still seeks four weeks' more to file the counter affidavit.

3. Despite sufficient opportunities granted, counter affidavit has not been filed by the respondents till date. I do not find any palpable reason to grant any further extension of time.

4. Accordingly, the request for granting additional time is denied. List the matter before the Hon'ble Court on 11.07.2024

for appropriate orders. In the meantime, respondents may file counter affidavit, if any”

2. Today, when the matter was taken up for consideration, the counter affidavit has still not been filed by the respondents. Considering the fact that even working for a single day entitles an employee to the pension for the last rank held by him, as laid down by a Coordinate Bench of this Tribunal in the case of P. Gopalakrishnan (supra), we allow this application. We treat the applicant's husband as having retired from the last rank of Havildar, as evidenced by Annexure A1. Therefore, the action of the respondents in denying the last rank pension to Hav Mam Chand Singh Tomar is set aside.

3. However, upon verification of the records, if the respondents find that late Hav Mam Chand Singh Tomar was never appointed or posted as a Havildar at any point of time, or for any other reason they believe the benefit cannot be granted to the applicant, the respondents are free to record their reasons and communicate the same to the applicant. The respondents shall take action in the matter either way within a period of three months.

4. O.A is disposed of accordingly.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[REAR ADMIRAL DHIREN VIG]
MEMBER (A)**

