

**COURT NO. 2, ARMED FORCES TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

12.

OA 449/2018

Ex Hony Nb Sub Munna Lal : **Applicant**
Versus
Union of India and Others : **Respondents**

For Petitioner : Mr. VS Kadian, Advocate
For Respondents : Mr. Arvind Patel, Advocate

CORAM:

HON'BLE MR JUSTICE VK SHALI, MEMBER (J)
HON'BLE LT GEN SANJIV CHACHRA, MEMBER (A)

ORDER
23.02.2018

1. The present application involves the question of extending the pensionary benefits in terms of Letter dated 12.06.2009 to the rank of Hony Nb Subedar which was conferred on the applicant after demitting office. The aforesaid order specifically lays that notional fixation of pay in the rank of Nb Subedar will be done. Despite the aforesaid order, passed by the MoD, giving the benefits across the board to all the ranks of Nb Subedar though conferred on the Hony basis, the benefit is being extended to only such of the officers who seeks redressal from the Courts. Our attention has also been drawn to the letter dated 30.10.2017 in which para 3 reads under:

3. Accordingly, I am directed to convey the approval

of Competent Authority in Ministry of Defence for implementation of orders of Hon'ble Courts/AFTs in pre-2006 retiree Havildars granted Hony Rank of Nb Sub cases, by Service Hqrs as under:

(a) Service Hqrs may implement the orders of Hon'ble Courts/AFTs in Hony Nb Sub cases by issuing absolute sanction keeping in view of the orders of Hon'ble Apex Court, quoted at Para 1 above.

(b) In those Hony Nb Sub cases in which conditional sanctions have been issued by the Service Hqrs with the approval of competent authority in MoD, Service Hqrs may convert conditional sanction into absolute sanction at their level with the approval of competent authority at Service Hq. No interest shall be payable as per Hon'ble Supreme Court order dated 20.05.2015 in the case of UOI Vs Subash Chander Soni.

2. The aforesaid extracts of the letter dated 30.10.2017 is nothing but increasing the work of the Tribunal, despite the categorical view taken by the Principal Bench in OA 1587/2016- Avtar Singh Vs UOI & Ors dated 08.09.2016 that pensionary benefit has to be given to the rank of Hony Nb Subedar and that is to be done irrespective of the fact whether they approach the Tribunal or not.

3. Respondents are directed to submit their reply on the issue as to why the benefit is not being given across the board to the Hony Nb Subedar and, thus, increasing the avoidable litigation by the said ranks. We shall be constrained to pass orders against the respondents.

4. A copy of this order be given DASTI to the parties.

5. Let reply be filed within two weeks.
6. List on **14.03.2018**.

(JUSTICE V.K. SHALI)
MEMBER (J)

(LT GEN SANJIV CHACHRA)
MEMBER (A)

23.02.2018/chanana