

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI**

03.

**O.A. No. 254 of 2012**

**Ex Hony Nb Sub Prem**

**.....Petitioner**

**Versus**

**Union of India & Ors.**

**.....Respondents**

**For petitioner: Mr. Rohit Pratap, Advocate.**

**For respondents: Maj. Alifa Akbar.**

**CORAM:**

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.**

**HON'BLE LT. GEN. M.L. NAIDU, MEMBER.**

**ORDER**  
**23.07.2012**

1. Admit. Issue notice.
2. Maj. Alifa Akbar appearing for the Respondents accepts notice. She submits that this petition is squarely covered by the order No. 1(8)/2008-D (Pen/Policy) dated 12<sup>th</sup> June 2009 of the Government of India, Ministry of Defence which reads as under:

"I am directed to say that in pursuance of Governments decision on the recommendations of the Sixth Central Pay Commission contained in Para 5.1.62 of Chapter V of the Report, the President is pleased to decide that Honorary rank of Naib Subedar granted to Havildars will be notionally considered as a promotion to the higher grade of Naib Subedar and benefit of fitment in the pay band and the higher grade pay will be allowed notionally for the purpose of fixation of pension only. Accordingly, additional element of pension of Rs.100/- pm payable to Havildars granted Hony rank of Naib Subedar as per Regn. 137 of Pension Regulations for the Army Part-I

(1961), amended vide this Ministry's letter No. 1(1)/88/D(Pen/Sers) dated 6.11.91 will cease to be payable. The notional fixation of pay in the rank of Naib Subedar will not be taken into account for payment of retirement gratuity, encashment of leave, composite transfer grant etc.

2. This letter takes effect from 1<sup>st</sup> January, 2006.

3. This issues with the concurrence of Finance Division of this Ministry vide their UO No. 2351/Finance/Pension dated 3.6.2009."

3. This case is also squarely covered by the judgment given by the Chandigarh Bench of the Armed Forces Tribunal in the case of **Virender Singh & Ors. v. Union of India & Ors. (O.A. No. 42 of 2010) decided on 9<sup>th</sup> February 2010**. In light of the aforesaid decision, the petition is allowed.

**A.K. MATHUR**  
(Chairperson)

**M.L. NAIDU**  
(Member)

New Delhi  
July 23, 2012  
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