

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

**28.**

**OA 1790/2023 with MA 2612/2023**

**In the matter of :**

**Nk Clk (GD) Radhey Shyam Sharma (Retd)      ... Applicant**

**Versus**

**Union of India &Ors.**

**... Respondents**

**For Applicant      :      Shri Nawneet Krishna Mishra, Advocate**

**For Respondents :      Shri Shyam Narayan, Advocate**

**CORAM :**

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON**  
**HON'BLE LT. GEN. P.M. HARIZ, MEMBER (A)**

**O R D E R**  
**13.07.2023**

The applicant was enrolled in the Indian Army, has filed this OA under Section 14 of the Armed Forces Tribunal Act, 2007. It is submitted that he had been receiving his pension as per the relevant Rules and Regulations and is now claiming enhanced/additional pension from the commencement of his 80<sup>th</sup> year of age in accordance to the entitlement introduced for all government pensioners across the board by way of introduction/amendment in the respective government statutes using identical phraseology.

2. The applicant being aggrieved by the fact that the Government was commencing the additional/enhanced pension only on completion of pensioner's 80<sup>th</sup> year across the board and has come before us, in the present application, claiming such benefit to be available to him on the commencement of the 80<sup>th</sup> year, i.e., after completion of 79<sup>th</sup> year and the first day of 80<sup>th</sup> year of his age. The prayer, as made out in the present application, reads as follows:

- (A) Issue direction to the respondents to grant the applicant the enhanced pension @ 20 % of revised basic pension for 12 months from the beginning till the end of 80 years of his age and continue the benefits as per the ruled thereafter;**
- (B) Award 9% interest on the arrears of pension, as respondents failed to extend the benefit to the applicant despite identical order of this Hon'ble Tribunal; and/or**
- (C) Pass such further order(s)/directions(s) in favour of applicant as you deem fit and proper in the interest of justice.**



3. Learned counsel for the applicant contends that a similar proposition came up before the Hon'ble Guwahati High Court interpreting Section 17-B of the High Court Judges (Salaries and Conditions of Service) Act, 1954 which is in **para materia** with the statute governing and regulating the applicant's pension and as such the two statutes must be construed together and the benefit thereof be extended to him from the commencement of the 80<sup>th</sup> year of his life. It is contended that the High Court's decision has already attained finality and, therefore, the respondent authorities should make payment of additional/enhanced pension at the rate of 20 % with effect from 30<sup>th</sup> April 2024 being the first day of the 80<sup>th</sup> year of his life.

4. Learned counsel for the applicant further contended that the approach of the respondent authorities is biased, unconstitutional and contravenes the rules and interpretation governing the provisions of **para materia** statute.

5. It is thus submitted that the applicant having satisfied and entered the age of 80 years is now entitled to 20% enhanced pension and non-payment of the said amount

with effect from 30<sup>th</sup> April 2024 is, therefore, wholly illegal, arbitrary and calls for interference by this Tribunal. It is further contended that the Hon'ble Tribunal in the matters of **Union of India and Ors. Vs. Virender Dutt Gyani** in (Civil Appeal Diary No. 18133/2019) decided on 08<sup>th</sup> July, 2019 and **Lt. Gen Gorakh Nath Vs. Union of India and Ors.** (OA 704/2021) decided on 13<sup>th</sup> October, 2022 has elaborately dealt with the questions involved in this OA and has decided the same in favour of the applicants therein.

6. We have heard learned counsel for the parties and have considered the rival submissions and in view of the fact that matters identical in nature have already been decided by this Tribunal in the cases of **Virender Dutt Gyani** (*Supra*) and **Lt. Gen Gorakh Nath** (*Supra*). We allow this OA and set aside the impugned order. The respondents are directed to pay to the applicant the additional/enhanced pension with additional quantum at the rate of 20 % with all consequential benefits from the first day of 80<sup>th</sup> year of the applicant, i.e., 30<sup>th</sup> April 2024 with arrears within a period of three months from the date of receipt of a copy of this order failing which the



applicant shall be entitled to interest at the rate of 6% on the amount due.

7. No order as to costs.

**[RAJENDRA MENON]  
CHAIRPERSON**

**[P. M. HARIZ]  
MEMBER (A)**

*sm*