

COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

33.

OA 1932/2023 with MA 2777/2023

Sub Naresh Prasad(Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. US Maurya, Advocate
For Respondents : Mr. Waize Ali Noor, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
19.07.2023

The applicant vide this OA makes the following prayers:

“(a) Direction to the respondents to grant additional/enhanced Pension @20% of revised Basic Pension from 01.03.2022 to 28.02.2023 of 12 months from Ist day of 80th years to end date of 80th year with 12% interest till final payment as question involved in this case on the matter of grant of additonal/enhance pension @20% with all consequential benefits from the Ist day of 80th years is no longer res integra, as the same had already been settled by this Hon’ble Tribunal in the cases of Lt. Gen Gorakh Nath(Retd) Vs Union of India & Ors(OA 704/2022 order dated 13.10.2022 by Hon’ble AFT)PB)(New Delhi)

(b) The applicant be granted any other relief which this Hon’ble Tribunal may deem appropriate, just and proper int he interest of justice and in the facts and circumstances of the case.

(c) Award cost of the OA to the applicant.”

2. Notice of the OA was issued to the respondents which is accepted on their behalf.

3. The applicant was enrolled in the Indian Army on 05.11.1962 and discharged from service after rendering 28 years and 26 days of qualifying service in the rank of Subedar on 30.11.1990. The applicant submits that pursuant to the 6th CPC recommendations and the Government of India letter dated 11.11.2008 vide para 12, Additional Pension/Family Pension to old pensioners/family pensioners were granted and made applicable with effect from the age of '*from 80 years to less than 85 years*' to pay 20% of revised basic pension/family pension. The applicant submits that his date of birth is 01.03.1943 and thus he has completed his 79th years on 28.02.2022 and entered in the 1st day of 80th year on 01.03.2022 and is thus entitled for additional pension w.e.f. 01.03.2022 as per the recommendations of the 6th CPC and the Govt of India letter dated 11.11.2008 referred to hereinabove. The applicant submits that despite representations dated 02.01.2023 and 03.07.2023, the respondents have neither disposed of his representations nor granted additional/enhanced pension @20% from the 1st day of 80th year from 01.03.2022. Hence this OA.

4. The applicant submits 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 years of age in accordance with the entitlement rules introduced for all government pensioners across the board by way of introduction/amendment in the respective government statutes using identical phraseology.

5. It is thus submitted that the applicant having entered the age of 80 year is now entitled to 20% enhanced pension and non-grant thereof w.e.f 01.03.2023 is wholly illegal, arbitrary and calls for interference by this Tribunal. Learned counsel for the applicant further contended that the approach of the respondent authorities is thus biased, unconstitutional and contravenes the rules and interpretation governing the provisions of *para materia* statute.

6. It is further contended that this Tribunal in the matters of Sqn Ldr Yogesh Choudhary Vs. Union of India and Ors., (OA 1102/2021) decided on 14th July, 2022 and Lt. Gen Gorakh Nath Vs. Union of India and Ors., (OA 704/2021) decided on 13th October, 2022 has elaborately dealt with the questions involved in this OA and has decided the same in favour of the applicants therein.

7. The respondents fairly do not dispute the settled proposition of law put forth on behalf of the applicant in view of the verdicts relied upon on behalf of the applicant.

8. On having perused the matter and in view of the fact that matters identical in nature have already been decided by this Tribunal in the cases of Sqn Ldr Yogesh Choudhary and Lt Gen Gorakh Nath (supra), we allow this OA and the respondents are directed to pay to the applicant the additional/enhanced pension @ 20% with all consequential benefits from the first day of the 80th year of the applicant, i.e. 01.03.2022 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 @ 6% p.a. on the amount due.

10. The OA is thus disposed of.

11. No order as to costs.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

19.07.2023

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