

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

OA 1001/2019

Smt Rajrati Devi Wd/o ... Applicant
Lt Hony Nb Sub Narayan Singh
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. V.S. Kadian, Advocate
For Respondents : Gp Capt Karan Singh Bhati, Sr. CGSC

CORAM :

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER(J)
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

The applicant has filed this application under Section 14 of the Armed Forces Tribunal Act, 2007, aggrieved by the non-grant of service pension equivalent to that of a regularly promoted Nb Sub with 26 years 27 days of service to her husband, in terms of MoD circular dated 12.06.2009 and she has made the following prayers:-

(a) Direct the respondents to grant the service pension in the rank of Naib Subedar to the husband of the applicant with effect from 01.01.2006 to till the date of death i.e 21.08.2011 and the family pension of the rank of Naib Subedar thereafter as per the GoI, MOD letter No 1(8)/2008-D(Pen/Policy) 12.06.2009 and order dated 08.02.2010 and passed the AFT Chandigarh Bench in OA No 42 of 2010 titles as Virender Singh & others v. UOI & Ors and Civil Appeal No. 4677 of 2014 titled UOI & Ors v. Subhash Chand Soni, decided by

Hon'ble Supreme Court on 20.05.2015 along with interest @10% p.a till the payment be made, for which applicant deserves.

(b) Any other relief which the Tribunal may deem fit and proper in the facts and circumstances of this case.

Brief Facts of the Case

2. The applicant's husband was enrolled in the Indian Army on 05.03.1980 and discharged from service w.e.f. 31.03.2006 under Army Rule 13 (3) Item III (i) after rendering 26 years and 27 days of service and was granted service pension in the rank of Hav w.e.f. 01.04.2006. Thereafter, the applicant was awarded the rank of Hony Nb Sub w.e.f. 01.04.2006, vide DO letter no. RAJPUT/48 dt. 18.08.2006. Following the recommendations outlined in Para 5.1.62, Chapter V of the VI Central Pay Commission (CPC) Report, the pension scheme for Havs granted the honorary rank of Nb Sub underwent revision. The recommendation proposed fixing the pension of such individuals by granting them notional promotion to the rank of Nb Sub. The Government duly accepted this proposition, issuing a MoD letter dated 12.06.2009 to this effect. The MoD directive stipulated that the honorary rank of Nb Sub granted to Hav's would be notionally regarded as a promotion to the higher grade of Nb Sub and accordingly, the benefit of fitment in the pay band and higher-grade pay would be allowed notionally for the sole purpose of pension

fixation. However, the applicability of this order was restricted to individuals who retired after 01.01.2006 with the honorary rank of Nb Sub. Since, the applicant being a post-2006 retiree had not been granted service pension in the rank of Nb Sub, the wife of the applicant, post his demise vide the present OA, seeks the grant of the same and further the correct fixation of family pension after the death of her husband.

Arguments by the Counsel for the Applicant

3. The counsel vehemently asserted that the pension of the applicant is wrongly fixed as Rs. 4,896/- from 01.01.2006; Rs. 6,304/- from 01.07.2009 and Rs 7,111/- from 24.09.2012, which is much lower than the pension of a regularly promoted Nb Sub of 24 years of service and therefore, in terms of MoD circular dated 12.06.2009 the applicant is entitled to receive pension of the rank of regularly promoted Nb Sub of 24 years of service which is @ Rs. 7,750/- PM w.e.f. 01.01.2006.

Arguments by the Counsel for the Respondents

4. The counsel emphasized that under the provisions of Rule 137 of Pension Regulation, Part-I 1961 as amended vide GoI, MoD letter No.1(8)2008-D(Pen/Policy) dated 12.06.2009, the benefits of a Nb Sub has been extended to those Havs who have been granted the rank of Honorary Nb Sub on their retirement from service. As per ibid revised

policy, they will be notionally considered as promoted to higher grade of Nb Sub and benefit in the pay band and the higher grade pay will be allowed notionally for the purpose of fixation of pension only. The provisions of ibid letter will be applicable to the personnel, who retired on or after 01.01.2006. The applicant's late husband in the instant case had been granted benefit and his service pension was revised vide PPO dated 30.10.2006. The applicant died on 21.08.2011 and the widow of the applicant was further granted family pension.

Consideration of the Case

5. Heard both the sides and perused the relevant records.
6. The controversy in this case is admittedly covered by the MoD letter dated 12.06.2009 as claimed by the petitioner in the present OA, should be denied to him.
7. Thus, we dispose of the present OA with the directions to the respondents to release the service pension of the husband of the applicant in the rank of Naib Subedar w.e.f. 01.04.2006 and further revise the family pension of the applicant from date of demise of the husband of the applicant, within a period of three months from the date of receipt of copy of this order by the representative of the respondents. In case compliance is not made by the respondents within the stipulated time as stated herein-above, interest @ 8% per annum shall accrue to the applicant w.e.f. 01.04.2006.

8. The OA is allowed and disposed of in terms of the observations and directions given herein-above.

9. No order as to costs.

Pronounced in open Court on this 31st day of May, 2024.



(LT GEN C.P. MOHANTY)
MEMBER (A)



(JUSTICE ANU MALHOTRA)
MEMBER (J)

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