

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

OA 1816/2018 with MA 2016/2018

1. Ex Hony Nb Sub Fauzi Ram & 60 Ors ... Applicants
2. Hony Nb Sub J Lawrance
3. Hony Nb Sub Yad Ram
4. Hony Nb Sub Suresh Chand
5. Hony Nb Sub Harish Chandra Sharma
6. Hony Nb Sub Shubh Karan
7. Hony Nb Sub Sankaiya
8. Hony Nb Sub Velayutham Muthu
9. Hony Nb Sub V Chellappan
10. Hony Nb Sub Parakkattil Balan
11. Hony Nb Sub Rambir Singh
12. Hony Nb Sub Dasari Bala Venkata Subbaiah
13. Hony Nb Sub Soman Pillai R
14. Hony Nb Sub T K Narayanan
15. Hony Nb Sub G Paul Raj
16. Hony Nb Sub Thethor Jayarajan
17. Hony Nb Sub Lakshmanan P
18. Hony Nb Sub Balaji P S
19. Hony Nb Sub Mahtab Singh
20. Hony Nb Sub Taza Kandy Mukandan
21. Hony Nb Sub Mohan Singh
22. Hony Nb Sub Putta Rama Jogaiah
23. Hony Nb Sub Braham Singh
24. Hony Nb Sub G S Gopal Singh
25. Hony Nb Sub N Namasivayam

26. Hony Nb Sub Vijayan Pillay R
27. Hony Nb Sub Shankar Hindalkar
28. Hony Nb Sub Gurbachan Singh
29. Hony Nb Sub Rattan Singh
30. Hony Nb Sub Mohinder Singh
31. Hony Nb Sub Ujjal Singh
32. Hony Nb Sub Ajit Singh
33. Hony Nb Sub Kulbir Singh
34. Hony Nb Sub Joginder Singh
35. Hony Nb Sub Jaswinder Singh
36. Hony Nb Sub Sukhwinder Singh
37. Hony Nb Sub Vijai Kumar Gurung
38. Hony Nb Sub Ravi V
39. Hony Nb Sub Kishan Singh Mall
40. Hony Nb Sub G G Krishna
41. Hony Nb Sub C Hari Prasad
42. Hony Nb Sub M Raju
43. Hony Nb Sub Bias Dev Bharmoria
44. Hony Nb Sub S P Joseph
45. Hony Nb Sub Jarnial Singh
46. Hony Nb Sub Yam Bahadur Thapa
47. Hony Nb Sub Debinder Singh Chhetri
48. Hony Nb Sub Ram Dars Pandey
49. Hony Nb Sub Vincent Koiparampil Abraham
50. Hony Nb Sub Ajit Singh
51. Hony Nb Sub Joy Pothan
52. Hony Nb Sub Sundar Singh
53. Hony Nb Sub Baleshwar Mishra
54. Hony Nb Sub Krishna Kumar Pandey
55. Hony Nb Sub Palakaveti Sambamurthy
56. Hony Nb Sub Hans Raj

57. Hony Nb Sub Hari Krishan
58. Hony Nb Sub Ajit Singh
59. Smt Pushpa
60. Smt C Soundari
61. Smt Annamma Kallem Abshalome

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. Anil Srivastava, Advocate
For Respondents : Mr. Satya Ranjan Swain, Advocate

CORAM :

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

ORDER

MA 2016/2018

This is an application filed by the applicant under Section 22(2) of the AFT Act, 2007 seeking condonation of delay of 78 days in filing the OA. In view of the judgments of the Hon'ble Supreme Court in the matter of *UOI & Ors Vs Tarsem Singh* 2009(1)AISLJ 371 and in *Ex. Sep Chain Singh Vs Union of India & Ors* (Civil Appeal No. 30073/2017 and the reasons mentioned in the MA and in the interest of justice, MA 2016/2018 is allowed and the delay of 78 days in filing the OA 1816/2018 is thus condoned. The MA is disposed of accordingly.

OA 1816/2028

In view of order dated 12.11.2024 in MA 4887/2024, the OA 1816/2018 is taken up for hearing today. Vide order dated 20.03.2024 of the Larger Bench in OA 589/2019 and connected OAs 1690/2020, OA 1691/2020, OA 1692/2020 with MA 287/2021, OA 1693/2020 with MA 2853/2021, OA 1694/2020, OA 1797/2020 with MA 2121/2021, OA 1912/2020 with MA 2217/2020, OA 1709/2021 with MA 1669/2021, OA 2589/2021 with MA 2727/2021, OA 2590/2021 with MA 2728/2021, OA 2544/2021 with MA 2674/2021, OA 2264/2019 with MA 3170/2019, OA 1593/2017, OA 1253/2017, OA 1750/2017 with MA 1030/2020, OA 1760/2017, OA 1878/2017, OA 2012/2017, OA 2438/2021 with MA 2546/2021 and OA 894/2019, the reference to the Larger Bench, as to

“whether an individual who has been conferred the rank of ‘Hony Nb Sub’ is entitled to the pension of ‘Nb Sub’ or ‘Hony Nb Sub’ in terms of the Govt. of India, Min of Def Circular No.1(8)/2008-D(Pen/Pol) dated 12.06.2009”:

has been answered to the effect:

“84. Thus, the reference is answered to the effect that: -

(a) A pre-2006 retiree Hony Nb Sub is entitled to the pension of a Hony Nb Sub as promulgated vide MoD notification dated 21.02.2020 and implementation instructions issued vide PCDA(P) Circular No.631 dated 05.03.2020.

(b) The individual is not entitled to the pension of a regular Nb Sub as he is only entitled to the pension of a Hony Nb Sub which is calculated based on a notional promotion to the rank of a regular Nb Sub at the minimum of the pay band, including the grade pay, MSP and group pay as applicable.

(c) This pension will be reckoned with reference to a notional maximum in the post 01.01.2006 revised pay structure corresponding to the maximum of the previous pay scales as per the fitment table for each rank, determined on the basis of notional maximum for the rank and group across the three Services, as applicable in fixing the pension of all pre-2006 retirees. "

2. The applicant 13676173M Ex Hony Nb Sub Fauzi Ram & Ors. and all other applicants arrayed as applicant nos.1-61 vide the present OA make the following prayers: -

(a) The applicants be granted the pension of the rank of Naib Subedar w.e.f. 01.01.2006 in accordance with Govt of India MoD(Army) letter No.1(8)/2008-D(Pen/Pol) dated 12.06.2009 within a period of 3 months from the date of issue of the order.

(b) The respondents be directed to pay interest @12% p.a. on the arrears.

(c) That the applicants be awarded cost of the litigation @ Rs.10,000/- per applicant.

(b) To issue such other order/direction as deemed fit in the facts and circumstances of the present case.

3. The applicants, numbering 61 including three widows, as per memo of parties have been discharged from the Army in the rank of Havildar prior to

01.01.2006 and are in receipt of service pension of Havildar rank. The service details of each of the applicants relating to their date of enrolment, date of discharge and the grant of Hony rank of Naib Subedar(in the tabulated form) is reflected as under:

APPLI CANT NO	Service No.	RANK	NAME S/O W/O	S/O,D/O,W/O & F/O	DOC	DOR	DATE OF AWARD OF HONY RANK	RECORD OFFICE
1	13676173M	HONY NB SUB	FAUJI RAM	LATE SHRI NARAYAN SINGH	12/6/1977	12/31/2003	01/26/2004 w.e.f 12/31/2003	RECORD OFFICE, GAURDS, PIN:900746, C/O 56 APO
2	13916873L	HONY NB SUB	J LAWRENCE	LATE JOHN	5/25/1969	4/1/1993	01/26/1994 w.e.f 4/1/1993	RECORD OFFICE,AMC, PIN:900450, C/O 56 APO
3	1255398A	HONY NB SUB	YAD RAM	LATE SHRI RAM SWAROOP	12/2/1971	12/31/1994	01/26/1995 w.e.f 12/31/1994	ARTILLERY RECORDS, PIN:900482, C/O 56 APO
4	13858573W	HONY NB SUB	SURESH CHAND	LATE SHRI KARAN SINGH	2/1/1975	1/31/1999	08/15/1999 w.e.f 1/31/1999	THE RECORDS, SIGNALS, PIN:901124, C/O 56 APO
5	13910986X	HONY NB SUB	HARISH CHANDRA SHARMA	LATE SHRI LAXMI CHAND	10/3/1967	10/31/1991	01/26/1999 w.e.f 10/31/1991	RECORD OFFICE,AMC, PIN:900450, C/O 56 APO
6	6307902F	HONY NB SUB	SHUBH KARAN	LATE JOANKA RAM	1/12/1965	1/31/1989	08/15/1989 w.e.f 1/31/1989	THE RECORDS, SIGNALS, PIN:901124, C/O 56 APO
7	2571041H	HONY NB SUB	SANKAIYA	M CHELLAIAH	9/25/1971	9/25/1995	01/26/1996 w.e.f 9/25/1995	THE MRC, PIN:900458, C/O 56 APO
8	1051511H	HONY NB SUB	VELAYUTHAM MUTHU	VELAYUTHAM V	12/29/1971	12/31/1995	01/26/1996 w.e.f 12/31/1995	RECORDS, ARMD CORPS, PIN:900476, C/O 56 APO
9	2570839X	HONY NB SUB	V CHELLAPPAN	C VELUMPAN	9/10/1971	9/30/1995	01/26/1996 w.e.f 9/30/1995	APS RECORDS, PIN:900746, C/O 56 APO
10	1185054	HONY NB SUB	PARAKKATTIL BALAN	RAMUNNI	1/26/1963	1/31/1987	08/15/1987 w.e.f 1/31/1987	ARTILLERY RECORDS, PIN:900482, C/O 56 APO
11	02875928Y	HONY NB SUB	RAMBIR SINGH	VIDHYA RAM SINGH BHADORIA	1/30/1980	1/31/2004	w.e.f 1/31/2004	RECORDS, THE RAJPUTANA RIFLES, PIN:900106, C/O 56 APO
12	1364450N	HONY NB SUB	DASARI BALA VENKATA SUBBAIAH	LATE D RAMAIAH	5/25/1976	9/30/2001	01/26/2002 w.e.f 9/30/2001	RECORDS, MEG CENTRE,

									PIN:900493,C/O 56 APO
13	2576198M	HONY NB SUB	SOMAN PILLAI R	RAGHAVAN PILLAI	3/9/1977	3/31/2001	08/15/2001 w.e.f 3/31/2001		THE MRC, PIN:900458, C/O 56 APO
14	1161116X	HONY NB SUB	T K NARAYANAN	LATE K RAMAN	4/16/1960	4/30/1982	01/26/1983 w.e.f 4/30/1982		ARTILLERY RECORDS, PIN:900482 , C/O 56 APO
15	2577060K	HONY NB SUB	G PAUL RAJ	P GURU SAMY	1/31/1978	1/31/2003	08/15/2003 w.e.f 1/31/2003		THE MRC, PIN:900458, C/O 56 APO
16	6310373L	HONY NB SUB	THETHOR JAYARAJAN	LATE C PAUL	8/7/1965	8/31/1987	1/26/1988		THE RECORDS, SIGNALS, PIN:901124, C/O 56 APO
17	14224640H	HONY NB SUB	LAKSHMANAN P	LATE M KUNHAPPA	11/29/1975	11/30/1999	w.e.f 11/30/1999		THE RECORDS, SIGNALS, PIN:901124, C/O 56 APO
18	7048305	HONY NB SUB	BALAJI P S	V K KUNJUSANKARAN	11/22/1961	11/30/1982	01/26/1983 w.e.f 11/30/1982		EME RECORDS, PIN:900453,C/O 56APO
19	13940706N	HONY NB SUB	MAHTAB SINGH	LATE ANANT RAM	10/28/1975	10/31/2001	01/26/2002 w.e.f 10/31/2001		RECORD OFFICE,AMC , PIN:900450, C/O 56 APO
20	14504913X	HONY NB SUB	TAZA KANDY MUKANDAN	LATE V KOTTAN	5/21/1971	5/31/1995	08/15/1995 w.e.f 5/31/1995		EME RECORDS, PIN:900453,C/O 56APO
21	14216853F	HONY NB SUB	MOHAN SINGH	DIWAN SINGH	12/29/1971	6/30/1994	08/15/1994 w.e.f 6/30/1994		THE RECORDS, SIGNALS, PIN:901124, C/O 56 APO
22	13937331P	HONY NB SUB	PUTTA RAMA JOGAI AH	LATE P GURAPPA	12/18/1973	12/31/1997	01/26/1998 w.e.f 12/31/1997		RECORD OFFICE,AMC , PIN:900450, C/O 56 APO
23	14277391W	HONY NB SUB	BRAHAM SINGH	LATE BHARA SINGH	2/21/1967	2/28/1991	w.e.f 2/28/1991		THE RECORDS, SIGNALS, PIN:901124, C/O 56 APO
24	14200613A	HONY NB SUB	G S GOPAL SAMY	LATE GOPAL SAMY	3/30/1966	3/31/1990	w.e.f 3/31/1990		RECORDS, ARMD CORPS,PIN:90047 6,C/O 56 APO
25	13658227	HONY NB SUB	N NAMASIVAYAM	LATE NAMASIVAYAM	6/8/1963	6/30/1987	08/15/1987 w.e.f 6/30/1987		RECORDS THE BRIGADE OF THE GUARDS KAMPTEE 441001
26	1054513Y	HONY NB SUB	VIJAYAN PILLAY R	LATE RAMAN PILLAI	9/19/1974	9/30/1998	01/26/1999 w.e.f 9/30/1998		RECORDS, ARMD CORPS,PIN:90047 6,C/O 56 APO
27	2762745D	HONY NB SUB	SHANKAR HINDALKAR	SHANKAR DATTU HINDALKAR	6/30/1971	6/30/1995	w.e.f 6/30/1995		RECORDS MLI, BELGAUM, KARNATAKA IS 590009
28	3379720F	HONY NB SUB	GURBACHAN SINGH	AJIT SINGH	8/19/1980	8/31/2004	w.e.f 8/31/2004		RECORD OFFICE,SIKH REGIMENT, PIN:900409, C/O 56 APO

29	14900502P	HONY NB SUB	RATTAN SINGH	PURAN SINGH	7/15/1980	7/31/2004	w.e.f 7/31/2004	MIRC,PIN:900476 ,C/O 56 APO
30	13739515H	HONY NB SUB	MOHINDER SINGH	PRITAM SINGH	11/22/1976	11/30/2000	w.e.f 11/30/2000	RECORDS, JAK RIF, PIN:901124,C/O 56 APO
31	2458985W	HONY NB SUB	UJJAL SINGH	BONTA SINGH	10/11/1968	1/31/1992	01/26/1993 w.e.f 1/31/1992	RECORDS, THE PUNJAB REGIMENT, PIN:900409, C/O APO
32	4453134M	HONY NB SUB	AJIT SINGH	BACHAN SINGH	9/29/1972	10/1/1996	w.e.f 10/1/1996	RECORDS,SLI, PIN:900427,C/O 56 APO
33	1426710Y	HONY NB SUB	KULBIR SINGH	AMAR SINGH	1/1/1961	4/30/1986	08/15/1986 w.e.f 4/30/1986	RECORD OFFICE BENGAL ENGINEER GROUP ROORKEE - 247667
34	6316395A	HONY NB SUB	JOGINDER SINGH	ANANT SINGH	1/15/1966	2/1/1997	08/15/1990 w.e.f 2/1/1997	THE RECORDS, SIGNALS, PIN:901124, C/O 56 APO
35	14358146N	HONY NB SUB	JASWINDER SINGH	CHANCHAL SINGH	6/25/1981	6/30/2005	08/15/2005 w.e.f 6/30/2005	ARTILLERY RECORDS, PIN:900482, C/O 56 APO
36	1459449K	HONY NB SUB	SUKHWINDER SINGH	NARAIN SINGH	7/24/1976	7/31/2000	08/15/2000 w.e.f 7/31/2000	RECORDS, BEG, PIN:900462,C/O5 6 APO
37	5241892K	HONY NB SUB	VIJAI KUMAR GURUNG	LATE G R GURUNG	8/31/1975	9/1/1999	w.e.f 9/1/1999	RECORDS,39 GR, PIN:900445,C/O 56 APO
38	6908871W	HONY NB SUB	RAVI V	LATE SHRI ACHUTHAN T	7/31/1975	2/27/1997	01/26/1997 w.e.f 2/27/1997	AOC RECORDS, PIN:900453,C/O 56APO
39	5748325M	HONY NB SUB	KISHAN SINGH MALL	LATE DEVI PRASAD MALL	3/17/1978	8/31/2002	01/26/2003 w.e.f 8/31/2002	RECORDS 58 GR, PIN:900332,C/O 99 APO
40	14295139A	HONY NB SUB	G G KRISHNA	LATE G VYAGHRESWARA SWAMY	8/14/1976	8/31/1998	01/26/1999 w.e.f 8/31/1998	THE RECORDS, SIGNALS, PIN:901124, C/O 56 APO
41	2570770Y	HONY NB SUB	C HARI PRASAD	LATE K T MUKUNDAN	9/9/1971	9/30/1995	01/26/1996 w.e.f 9/30/1995	THE MRC, PIN:900458, C/O 56 APO
42	7122980H	HONY NB SUB	M RAJU	MARKANTER	10/19/1970	10/31/1994	01/26/1995 w.e.f 10/31/1994	RECORDS,THE RAJPUTANA RIFLES, PIN:900106,C/O 56 APO
43	14902019K	HONY NB SUB	BIAS DEV BHARMORIA	LATE SH ACCHARU RAM BHARMORIA	6/30/1981	7/1/2005	08/15/2005 w.e.f 7/1/2005	MIRC,PIN:900476 ,C/O 56 APO
44	7082344K	HONY NB SUB	S P JOSEPH	LATE K J PIUS	2/18/1964	2/28/1986	01/26/1992 w.e.f 2/28/1986	EME RECORDS, PIN:900453,C/O

								56APO
45	1245864W	HONY NB SUB	JARNAIL SINGH	S HARBHAJAN SINGH	4/24/1968	5/1/1992	01/26/1992 w.e.f 5/1/1992	ARTILLERY RECORDS, PIN:900482, C/O 56 APO
46	05842605Y	HONY NB SUB	YAM BAHADUR THAPA	LATE BHAKTA BAHADUR THAPA	4/16/1975	5/1/2001	w.e.f 5/1/2001	39 GR, PIN 900445, C/O 56APO
47	05841871L	HONY NB SUB	DEBINDER SINGH CHHETRI	LATE MULA RAM CHHETRI	2/9/1972	2/28/1996	08/15/1996 w.e.f 2/28/1996	99 GORKHA REGIMENT, VARANASI CANTT 221001
48	13945240A	HONY NB SUB	RAM DARS PANDEY	LATE RAM PRAKASH PANDEY	2/11/1978	2/29/2004	w.e.f 2/29/ f 2/1/2004	RECORD OFFICE,AMC, PIN:900450, C/O 56 APO
49	07111439P	HONY NB SUB	VINCENT KOIPARAMPIL ABRAHAM	LATE K S ABRAHAM	5/16/1968	5/31/1992	08/15/1992 w.e.f 5/31/1992	EME RECORDS, PIN:900453,C/O 56APO
50	6270714	HONY NB SUB	AJIT SINGH	SANTOKH SINGH	1/5/1957	1/31/1979	08/15/1979 w.e.f 1/31/1979	THE RECORDS, SIGNALS, PIN:901124, C/O 56 APO
51	1343582N	HONY NB SUB	JOY POTHEN	LATE SHRI P K POTHEN	10/7/1965	10/31/1989	01/26/1990 w.e.f 10/31/1989	RECORDS,MEG CENTRE, PIN:900493,C/O 56 APO
52	9213426X	HONY NB SUB	SUNDAR SINGH	LATE SHRI BIRBAL SINGH	8/12/1971	8/31/1995	01/26/1996 w.e.f 8/31/1995	RECORDS THE MAHAR REGIMENT SAUGOR MP-470001
53	13908914P	HONY NB SUB	BALESHWAR MISHRA	LATE H N MISHRA	10/27/1966	2/1/1990	w.e. 1990	RECORD OFFICE,AMC, PIN:900450, C/O 56 APO
54	13934497L	HONY NB SUB	KRISHNA KUMAR PANDEY	LATE MANGAL PANDEY	10/6/1971	11/1/1995	01/26/1996 w.e.f 11/1/1995	RECORD OFFICE,AMC, PIN:900450, C/O 56 APO
55	2583384L	HONY NB SUB	PALAKAVETI SAMBAMURTHY	P SANKARAI AH	11/5/1980	12/1/2004	01/26/2005 w.e.f 12/1/2004	RECORDS THE MADRAS REGIMENT WELLINGTON 643231
56	7109592Y	HONY NB SUB	HANS RAJ	SHARAN DASS	11/7/1967	11/30/1991	01/26/1992 w.e.f 11/30/1991	EME RECORDS, PIN:900453,C/O 56APO
57	7127286A	HONY NB SUB	HARI KRISHAN	CHANAN RAM	8/19/1969	8/31/1993	01/26/1994 w.e.f 8/31/1993	EME RECORDS, PIN:900453,C/O 56APO
58	1510966	HONY NB SUB	AJIT SINGH	MEHNGA SINGH	7/21/1955	7/31/1977	08/15/1976 w.e.f 7/31/1977	RECORDS, BEG, PIN:900462,C/O 56 APO
59	5029668		SMT PUSHPA	W/O LATE 5029668 HONY NB SUB GANGDHAR GURUNG	11/17/1949	11/14/1970	08/15/1971 w.e.f 11/14/1970	RECORDS 1ST &4TH GORKHA RIFLES, SUBATHL (SIMLA HILLS)

60	1278326H		SMT C SOUNDARI	W/O LATE 1278326H HONY NB SUB V CHINNAIAN	8/7/1965	9/1/1989	w.e.f 9/1/1989	ARTILLERY RECORDS, PIN:900482, C/O 56 APO
61	7044630	SMT ANNAMMA KALLEM ABSHALOME	LATE 7044630 HONY NB SUB KALLEM ABSHALOME		6/1/1983		w.e.f 6/1/1983	EME RECORDS, PIN:900453,C/O 56APO

4. The applicants submit that they have been in receipt of additional pension for having been granted the Hony rank of Nb Sub which has however since been ceased wef 01.01.2006 after the implementation of the recommendations of the 6th CPC. The applicants submit that though they approached their respective OIC Records and CDA(Pen) for the grant of pension of the rank of Nb Sub, their representations remained either un-responded to or were rejected on the grounds:

- (a) That the benefit has been granted to only those cases wherein they were granted the 'Hony rank' before their discharge.
- (b) That the benefit of the grant of Hony Rank's pension is applicable only to those cases who were granted Hony rank/discharged from service after 01.01.2006.

5. The applicants submit that the Govt of India, Min of Defence letter No.1(8)/2008-D(Pen/Pol) dated 12.06.2009 clearly indicate that the provisions of grant of pension of rank of Nb Subedar is applicable even to all pre-2006 retirees who have been granted the rank of Nb Subedar and the same will also be applicable to them effective from the date of implementation of the recommendations of the 6th Central Pay Commission wef 01.01.2006 whereas the respondents' contention already filed in OA 243/2012 in the case of Ex Hony Nb

Sub Nandram & Ors Vs UOI & Ors. is that the provisions of the letter No.1(8)/2008-D(Pen/Pol) dated 12.06.2009 are applicable to those persons who have been granted the Hony Nb Subedar's rank after 01.01.2006. The applicants further submit that with the implementation of the recommendations of the 6th CPC, the Govt of India has liberalized the provisions related to pension that will be applicable not only to post 01.01.2006 retirees but also to pre-01.01.2006 retirees wef 01.01.2006. The applicants further placed reliance on a catena of orders of this Tribunal whereby the relief has been granted to the litigants and further submit that as per settled law the pension formula to the pensioners who have retired even prior to the specified date cannot create two classes amongst the pensioners.

6. Based on the recommendations of the 6th CPC, the MoD vide letter dated 12.06.2009 promulgated that rank of Hony Nb Sub granted to Hav will be notionally considered as a promotion to the higher grade of Nb Sub and that benefit of fitment in the pay band and higher grade pay will be allowed notionally for the purpose of fixation of pension only. It is thus the case of the applicants that their pension be revised and re-fixed as applicable to a regular Nb Sub with 24 years of service.

7. The respondents however submit that the provisions of the MoD letter dated 12.06.2009 were applicable only to those retiring on or after 01.01.2006 and that the pension of pre-2006 Hav granted rank of Hony Nb Sub is to be now

regulated as per the provisions of MoD letter dated 21.02.2020.

ANALYSIS

8. Due to conflicting views regarding the fixation of pension of pre-2006 Hav granted rank of Hony Nb Sub, the matter was placed before a Larger Bench by the order dated 28.01.2020 in Ex Hony Nb Sub Ram Kishan Vs. Union of India and Ors in OA 589/2019, which reads as under:

"By way of the present OA, the applicant claims pension in the rank of 'Nb Sub' with effect from 01.01.2006 on the basis of Govt. of India (MoD) Circular dated 12.06.2009. Number of OAs are being filed by the individuals who were conferred Hony Rank of Nb Sub on the occasion of Republic Day/Independence Day and they have been claiming revision in their pension on the basis of Govt. of India letter dated 12.06.2009 in the rank of 'Nb Sub'. There are conflicting views as to whether the individual is entitled to revision in pension of 'Hony Nb Sub' or 'Nb Sub'.

In OA No. 2127 of 2019 Ex Hav (Hony Nb Sub) Yogandar Singh Vs. Union of India & Ors.) decided on 10.12.2019 and OA No. 1981 of 2019 (Ex Hav (Hony Nb Sub) Shiv Pal Vs. Union of India and others) decided on 11.12.2019, relying upon the judgment in Virender Singh & Ors. Vs. Union of India & Ors. (O4 No. 42 of 2010) decided on 08.02.2010 the Tribunal granted pension to the applicant of the rank of 'Nb Sub', whereas in OA. No. 06 of 2019 (Ex Hav (Honorary Naib Subedar) Ram Murti Vs. Union of India and others) decided on 22.07.2019 by AFT, Regional Bench, Lucknow, the applicant has claimed service pension in the rank of 'Nb Sub' relying upon the said Govt. of India Circular dated 12.06.2009, however, the OA was dismissed on the ground that the applicant was

not entitled to pension to 'Nb Sub'. When his last rank held was of 'Hony Nb Sub'.

In view of the conflicting opinions, it will be desirable that the matter be referred to a Larger Bench for its decision as to whether as individual who has been conferred rank of 'Hony Nb Sub' is entitled to the pension of 'Nb Sub' or 'Hony Nb Sub' in terms of the aforesaid Govt. of India Circular dated 12.06.2009, and for the said purpose, let the matter be placed before the Hon'ble Chairperson for appropriate orders as may be deemed fit."

9. The Larger Bench of AFT (PB) New Delhi vide its order dated 20.03.2024 held that a pre-2006 retiree Hony Nb Sub is entitled to the pension of a Hony Nb Sub as promulgated vide MoD notification dated 21.02.2020 and implementation instructions issued vide PCDA (P) Circular No.631 dated 05.03.2020 and that the individual is not entitled to the pension of a regular Nb Sub as he is only entitled to the pension of a Hony Nb Sub which is calculated based on a notional promotion to the rank of a regular Nb Sub at the minimum of the pay band, including the grade pay, MSP and group pay as applicable.
10. The Larger Bench examined the concept of Hony Nb Sub, relationship between pay and pension, revision of pension in respect of pre-2006 retirees, pension of Hony Nb Sub, relevance of various judgments in this matter, the notification dated 21.02.2020, the issues raised by the applicant, and concluded as given in Para 83 and 84 of the order, and answered the reference as given in Para 84 thereof. Paras 83 and 84 are reproduced therein hereinbelow:-

"Conclusion

83. Based on the above consideration we conclude the following: -

(a) As per Regulation 180 of the Defence Services Regulations (DSR), Hav/Dfr and Hav Clks (including those employed in recruiting offices) with 24 years of service and who could not get promotion to the next higher rank of Nb Sub during active service, are selectively conferred the rank of Hony Nb Sub after retirement. Initially a financial benefit of Rs.12/- was attached to it which was later enhanced to Rs.100/- per month.

(b) Based on the recommendations of the 6th CPC, MoD issued letter dated 12.06.2009 which directed that the Hony rank of Nb Sub granted to Hav would be notionally considered as a promotion to the higher grade of Nb Sub and that the benefit of fitment in the pay band and higher-grade pay will be allowed notionally for the purpose of fixation of pension only. And that additional element of pension of Rs.100/- will cease to be paid.

(c) Hav who retired prior to 01.01.2006 and who were granted the rank of Hony Nb Sub sought the benefit of the MoD notification dated 12.06.2009. Aggrieved on not being granted the benefit of this notification, pre-2006 retirees filed cases in the AFT.

(d) AFT (RB) Chandigarh in its order dated 08.02.2010 in the case of Virender Singh (supra) held that the provisions of the MoD notification dated 12.06.2009 were admissible to the pre-2006 retiree Hony Nb Subs too and directed that the notification be implemented and arrears be paid from 01.01.2006. This attained finality with the SLP filed against this

order being dismissed by the Apex Court. The ratio of judgment in the case of Virender Singh(supra) was further upheld by the Hon'ble Supreme Court by its order dated 20.05.2015 in the case of Subbash Chander Soni (supra).

(e) Anomalies in the 6th CPC and grant of pension to pre-2006 retirees were examined by various committees. The CCS made two sets of recommendations. The implementation instructions of CCS-I were issued on 18.03.2010 and was made effective from 01.07.2009. That of CCS-II was issued on 17.01.2013 and was effective from 24.09.2012. The letter dated 17.01.2013 included revised pension tables for Hony Nb Sub and Nb Sub as on 01.07.2009 and 24.09.2012.

(f) Though revision of pension of pre-2006 retirees as per provisions CCS-II was initially effective from 24.09.2012, based on a judgement of Delhi High Court it was made effective from 01.01.2006 for civilians initially, and subsequently for officers and PBOR vide MoD letter dated 03.09.2015 (PCDA Circulars No.547 & 548). Thus, with this, the recommendation of CSC-II was extended to PBOR also from 01.01.2006.

(g) Till 5th CPC, the maximum pension was worked out for a total qualifying service of 33 years and progressively reduced as per the actual qualifying service along with the added weightage. However, in the 6th CPC, the pension has been since delinked from the total qualifying service of 33 years and is now granted at 50% of the last pay drawn. Thus, in the case of pre-2006 retirees, irrespective of their qualifying service, the pension was protected at 50% of the minimum pay in the pay band.

(h) Based on various instructions issued from time to time since 01.01.2006 regarding revision and enhancement of pension of pre-2006 retirees, the guiding principle is that the pension of pre-01.01.2006 pensioners will be reckoned with reference to a notional maximum in the post 01.01.2006 revised pay structure corresponding to the maximum of the previous pay scales as per fitment table for each rank, determined on the basis of notional maximum for the ranks and group across the three Services. Though the revisions of pension were made applicable from later dates, based on certain Tribunal/Court cases, it was subsequently made applicable from 01.01.2006 for all ranks of the armed forces.

(i) Based on the orders in the case of **Hoshiar Singh** (supra) GoI issued notification dated 21.02.2020 with fresh pension tables for Hony Nb Sub as applicable on 01.07.2009 and 24.09.2012.

(j) In working out this table, the pension was worked out by two methods; one based on the max pay of Hav in 5th CPC across the three Services, and the second by utilizing the minimum of the transition fitment table of Nb Sub in the 6th CPC. With this, the maximum and minimum for Hony Nb Sub in X-Group was Rs.10,090/- and Rs.9,170/-. And for Hony Nb Sub in the Y-Group, it was Rs.8,505/- and Rs.8,330/-.

(k) An Hony Nb Sub is distinctly different from a regular Nb Sub and both appointments cannot be equated. Thus, an Hony Nb Sub is not entitled to the pension of a regular Nb Sub except as part of the relief granted under the 6th CPC, wherein a Hav granted the rank of Hony Nb Sub is

notionally considered as a promotion to the higher grade of Nb Sub and benefit of the fitment in the pay band and the higher-grade pay is to be allowed notionally for fixing of pension only. And since it's a notional fixation for pensionary benefits only, it has to be at the minimum in the pay band as the Hav has never served as a regular Nb Sub. Thus, the notional fitment in the revised pay scale in the table for the Nb Sub can only be done at the minimum of the table and cannot be undertaken based on the years of service in the rank of Hav, since the individual never held the rank of a regular Nb Sub even for a single day.

84. Thus, the reference is answered to the effect that:-

(a) A pre-2006 retiree Hony Nb Sub is entitled to the pension of a Hony Nb Sub as promulgated vide MoD notification dated 21.02.2020 and implementation instructions issued vide PCDA(P) Circular No. 631 dated 05.03.2020.

(b) The individual is not entitled to the pension of a regular Nb Sub as he is only entitled to the pension of a Hony Nb Sub which is calculated based on a notional promotion to the rank of a regular Nb Sub at the minimum of the pay band, including the grade pay, MSP and group pay as applicable.

(c) This pension will be reckoned with reference to a notional maximum in the post 01.01.2006 revised pay structure corresponding to the maximum of the previous pay scales as per the fitment table for each rank, determined on the basis of notional maximum for the rank and group across the three services, as applicable in fixing the pension of al pre-2006 retirees."

CONCLUSION

11. Therefore, in view of the answer to the reference as detailed in para 10 hereinabove, we dispose of the OA 1816/2018 with the directions that:

(a) The pension of the applicants nos 1-58, and of the deceased 5029668 Hony Nb Sub Gangdhar Gurung, 1278326H Hony Nb Sub V Chhinnaian and 7044630 Hony Nb Sub Kallem Abshalome at Sr No. 59, 60 and 61 respectively (till date of discharge) be revised in accordance with MoD notification dated 21.02.2020 and implementation instructions issued vide PCDA (P) Circular No.631 dated 05.03.2020.


(b) The corrigendum PPO qua applicant nos.1-58 and qua the deceased 5029668 Hony Nb Sub Gangdhar Gurung, 1278326H Hony Nb Sub V Chhinnaian and 7044630 Hony Nb Sub Kallem Abshalome at Sr No. 59, 60 and 61 respectively (till date of discharge), be accordingly issued and arrears be paid within three months from the date of receipt of this order failing which, interest @ 6%p.a. shall be payable to the applicant on all the arrears till the date of actual payment.


(c) Furthermore, the family pension of the applicants Smt. Pushpa W/o Late 5029668 Hony Nb Sub Gangdhar Gurung, Smt. C Soundari W/o Late 1278326H Hony Nb Sub V Chhinnaian and Smt. Annamma Kallem Abshalome W/o Late 7044630 Hony Nb Sub Kallem Abshalome at Sr No. 59,60 and 61 be computed

accordingly and re-fixed in accordance with (a)&(b) hereinabove,
and the corrigendum PPO in relation to the applicant nos.
59,60,61 be issued and the arrears be paid to the applicants within
a period of three months from the date of receipt of copy of this
order failing which interest @6%p.a. to be paid to the applicant on
all arrears till the date of actual payment.

12. No order as to costs.

Pronounced in the open Court on the 6th day of February, 2025.


(REAR ADMIRAL DHIREN VIG)
MEMBER(A)


(JUSTICE ANU MALHOTRA)
MEMBER(J)

/chanana/