

COURT NO. 3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

16.

OA 459/2019

6610024A Ex Hav (Hony Nb Sub)

Mahabir Singh & Ors.

... Applicants

Versus

Union of India & Ors.

.... Respondents

For Applicant

: Mr. V S Kadian, Advocate

For Respondents

: Mr. Neeraj Kumar, Sr. CGSC

CORAM :

HON'BLE MS JUSTICE NANDITA DUBEY, MEMBER (J)

HON'BL REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R
01.08.2025

The applicants 6610024A Ex Hav (Hony Nb Sub) Mahabir Singh and 13442496H Ex Hav (Hony Nb Sub) Ramesh Chand Sharma vide the present OA makes the following prayers: -

(a) Direct to the respondents to grant the service pension in the rank of Naib Subedar to the applicants with effect from 01.01.2016 as per the GoI, MoD letter No.1(8)/2008-D(Pen/Policy) dated 12.06.2009 and order dated 08.02.2010 passed by

the Hon'ble AFT Chandigarh Bench in OA 42 of 2010 titled as Virender Singh & Ors Vs UOI & Ors and Civil Appeal No.4677 of 2014 titled UOI & Ors Vs Subhash Chander Soni, decided by Hon'ble Supreme Court on 20.05.2015 alongwith interest @10% p.a. till the payment be made which the applicant deserves.

(b) Any other which the Hon'ble Tribunal may deem fit and proper in facts and circumstances of the case.

2. The applicants, namely, 6610024A Ex Hav (Hony Nb Sub) Mahabir Singh and 13442496H Ex Hav (Hony Nb Sub) Ramesh Chand Sharma were enrolled in the Indian Army on 12.06.1962 and 23.11.1965 respectively and were discharged from service on 30.06.1988 and 30.11.1989 respectively after completion of more than 26 years and 24 years of pensionable service. The applicants submit that they were granted the Hony Rank of Naib Subedar on retirement and were being paid Rs.100/-p.m. additional pension for the rank Hony Naib Subedar till 31.12.2005 but after the implementation of the recommendations of the 6th CPC wef 01.01.2006, their pension was fixed of the rank of Havildar and consequently the additional pension of Rs.100/-p.m. being paid to

them was stopped. The applicants submit that they had submitted representation dated 28.11.2018 and 09.11.2018 respectively for the grant of service pension of Hony Nb Sub based on the letter No.1(8)/2008-D(Pen/Policy) dated 12.06.2009 issued by the GoI, MoD for payment of pension in the rank of Nb Sub. However, the respondents denied the grant of service pension of Hony Nb Sub vide impugned Letter No.G-2/II/Spl/2019 dated 31.01.2019 stating that no general order has been issued by the GoI/MoD for the grant of pension for the rank of Nb Sub to all pre-2006 discharged Havildars who were awarded the Hony rank of Nb Sub. The applicants submit that as per PCDA(P), Allahabad Circular No.430 dated 10.03.2010 and as the GoI, MoD, Deptt. Of Ex-Servicemen Welfare Letter No.PC/10(1)/2009-D(Pen/Pol) dated 08.03.2010, the GoI have decided to implement the recommendations of the Cabinet Secretary's Committee-Revision of pension in respect of Personnel Below Officer Rank(PBOR) discharged prior to 01.01.2006. The applicants further submit that they were fully covered by the judgment dated 08.02.2010 passed by the Hon'ble AFT, Chandigarh in OA No.42/2010 in the case of **Virender Singh & Ors Vs UOI & Ors.** and catena of other orders of the Hon'ble AFT

and thus they are entitled for re-fixation of basic pension in the rank of Nb with 24 years of qualifying service and further revision as per entitlement from time to time.

3. Based on the recommendations of the 6th CPC, 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.

4. The respondents initially through their counter affidavit dated 04.12.2019 submit that consequent upon the grant of Hony rank of Nb Sub on 26.01.2004, the applicants were granted an additional element of service pension @ Rs.100/- which was payable to Havs who were granted Hony Rank of Nb Sub and as per the provisions of GoI, MoD letter dated 12.06.2009 were made applicable wef 01.01.2006. The counsel for the respondents briefly took us through the details pertaining to fixing the pension of pre-2006 retirees in general and that of Hav granted Hony rank of Nb Sub on

retirement. The counsel further elaborated 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

5. Due to conflicting views regarding the fixation of pension of pre-2006 Hav granted rank of Hony Nb Sub, the matter was referred to a Larger Bench by the order dated 28.01.2020 in the case of **Ex Hony Nb Sub Ram Kishan** Vs. **Union of India and Ors** and connected matter in OA 589/2019.

6. The issue before the Larger Bench, was to the effect:-

“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”:

Vide order dated 20.03.2024, the reference 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. ”

7. The Larger Bench of AFT (PB) New Delhi thus vide its order dated 20.03.2024 in OA 589/2019 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.

CONCLUSION

8. Therefore, in view of the answer to the reference as detailed in para 84 of the order dated 20.03.2024 in OA 589/2019 and connected cases of the Armed Forces Tribunal(PB), New Delhi referred to in para 6 hereinabove, we dispose of the OA 459/2019 with the directions that:

(a) The pension of the applicants 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 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 applicants on all the arrears till the date of actual payment.

9. No order as to costs.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

/Pooja/