

**ARMED FORCES TRIBUNAL, REGIONAL BENCH CHANDIGARH
AT CHANDIMANDIR**

-.-

OA 2888 of 2018

Tuesday, the 21st day of Aug, 2018

CORAM:

HON'BLE MR JUSTICE M.S. CHAUHAN, MEMBER (J)

HON'BLE LT GEN MUNISH SIBAL, MEMBER (A)

Smt Nirmala Devi

.....

Applicant

(By Ms DS Jaswal, Advocate for

Mr Ranbir Singh Pathania, Advocate)

Versus

Union of India and others

.....

Respondents

(By Ms Balwinder Kaur, Sr PC)

-.-

ORDER

By means of the present application, filed under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant, widow of Honorary Naib Subedar late Sh. Mangat Ram, who **expired on 27.10.2017(Annexure A-4)**, seeks a direction to the respondents to release the enhanced ***Service Pension*** for her late husband in the rank of Honorary Naib Subedar w.e.f. 01.01.2006 to 27.10.2017 and thereafter ***family pension for life w.e.f 28.10.2017*** on the basis of the judgment of the Hon'ble Supreme Court in **Special Leave to Appeal (Civil) CC No 18582 of 2010**, titled **Union of India & Ors V.s Virender Singh & Ors.**, decided on **13.12.2010** and **Civil Appeal No 4677 of 2014**, titled **Union of India and Others Vs. Subhash Chander Soni**, decided on **20.05.2015**.

2. The claim is based upon Gol, MoD Circular dated 12.06.2009 (Annexure A-1) and the judgment of this Tribunal in **OA No. 42 of 2010 titled Virender Singh and others v. Union of India and others**, decided on **08.02.2010** (Annexure A-2) which stands affirmed by the Hon'ble Supreme Court in **Special Leave to Appeal (Civil) CC No. 18582 of 2010 Union of India and others v. Virender Singh and others** decided on **13.12.2010** (Annexure A-3).

3. **Notice.**

4. Ms Balwinder Kaur, Sr PC accepts notice on behalf of the respondents and does not controvert the factual aspects of the matter as presented before us.

5. With the consent of the parties the matter is taken on board for final disposal.

6. We heard both the sides and have perused the relevant record.

7. The learned Counsel for respondents agrees that the controversy involved in the present case is fully covered by the judgment of this Tribunal *Virender Singh's case (supra)* which is consistently being followed in such and similar cases. It is also pertinent to mention that this Tribunal also decided another case i.e. OA No. 3146 of 2013, titled 'Baldev Singh vs. Union of India & others' along with 33 connected OAs, on the basis of the judgment rendered in Virender Singh's case (supra). In one of these cases, the respondents filed Civil Appeal No. 4677 of 2014, 'Union of India and others Vs. Subbash Chander Soni', which was also dismissed by the Hon'ble Supreme Court on **20.05.2015** and, thus, the view taken by this Tribunal attained finality. This O.A. can, therefore, be disposed of in the same/ similar terms.

8. Since the point in issue is no longer *res integra*,, therefore, we do not insist upon the respondents for formal reply, as it will not improve their case and it shall be a sheer wastage of public money and time.

9. At this stage, the learned counsel for the respondents ventilated to restrict the arrears to six months. We find that a similar plea was taken before this Tribunal on behalf of the Union of India in Baldev Singh vs. UOI & others (supra), wherein Leave to Appeal was granted to the respondents. The SLP filed as Civil Appeal No.4677 of 2014, 'Union of India and others vs. Subbash Chander Soni' was dismissed by the Hon'ble Supreme Court on **20.05.2015** and the petitioner therein was held entitled to the requisite benefit w.e.f. 01.01.2006, however, clarifying that *no interest shall be payable* in such cases. The entire order is reproduced as under :-

"ORDER

*From the reading of the impugned judgment of the
Armed Forces Tribunal, it gets revealed that the Tribunal*

*has relied upon its earlier judgment dated 8.2.2010 rendered in OA No.42 of 2010 titled as 'Virender Singh & Ors. v. UOI' where identical relief was granted to the petitioners therein who were similarly situated. Further, we note that against the said judgment of the Tribunal, SLP(c) CC no.18582 of 2010 was preferred which was dismissed by this Court on 13.12.2010. We further find that by the impugned judgment, the Tribunal had decided 35 OAs and the Union of India has preferred the instant appeal only in one of those 35 cases. For all these reasons, we are not inclined to entertain this appeal, which is dismissed accordingly. **We, however, clarify that no interest shall be payable.***

Two months' time is granted to the appellants to comply with the impugned judgment passed by the High Court."

10. Based on the judgments of the Apex Court mentioned herein-in-above, we dispose of the present O.A. with a direction to the respondents to release the arrears of revised pension to the applicant qua her husband with effect from 01.01.2006 to 27.10.2017 by calculating the same by way of drawing a due drawn statement and, thereafter, up to date arrears of revised family pension to her with effect from 28.10.2017 for life within a period of three months from the date of receipt of certified copy of this order by the representative of the respondents. It is made clear that no interest on the arrears payable to the applicant, shall be paid as already ruled by the Honourable Supreme Court. However, in case compliance of this order is not made by the respondents within the stipulated time, interest @ 8% shall accrue to the applicant w.e.f. the due date.

OA 2888 of 2018

11. The OA is allowed and disposed of in terms of the observations and directions given hereinabove, subject to verification of the factual matrix by the respondents.
12. There shall be no order as to costs.

(Munish Sibal)
Member (A)
sks

(M.S. Chauhan)
Member (J)