

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

-:-

OA 3957 of 2018

Tuesday, the 27th day of Nov, 2018

CORAM:

HON'BLE MR JUSTICE VIRENDER SINGH, CHAIRPERSON

(As Administrative Member)

HON'BLE MR JUSTICE MOHAMMAD TAHIR, MEMBER (J)

Gurnam Singh

.....

Applicant

(By Brig PS Ghuman (Retd), Advocate)

Versus

Union of India and others

.....

Respondents

(By Ms Sonia Sharma CGC)

-:-

ORDER

1. The instant matter relates to the service pension of a soldier, which is being taken up by this Special Bench under Section 5(3)(a) of the Armed Forces Tribunal Act, 2007, wherein the Chairperson is sitting in the capacity of Member (Administrative) for the purpose of composition of the Tribunal.
2. The applicant is pre- 01.01.2006 retiree and at the time of his retirement, he was granted the Honorary rank of Naib Subedar.
3. By means of the present petition, filed under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant seeks a direction to the respondents to release the revised pension in the rank Honorary of Naib Subedar w.e.f. 01.01.2006.
4. Notice.

5. Ms Sonia Sharma, CGC accepts notice on behalf of the respondents and does not controvert the factual aspect of the matter as presented before us.

6. Heard the learned counsel for the parties and perused the relevant records.

7. The learned Counsel for respondents agrees, that the controversy involved in the present case is fully covered by 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**. The said decision also 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** and is consistently being followed in similar cases. Subsequently, this Tribunal in another case i.e. **OA No. 3146 of 2013, 'Baldev Singh vs. Union of India & others'**, decided the case (along with 33 connected OAs) on the basis of the judgment rendered in **Virender Singh's case (supra)**, as upheld by the Hon'ble Supreme Court. In this case, the respondents filed an appeal only in one case as **Civil Appeal No. 4677 of 2014, 'Union of India and others Vs. Subbash Chander Soni'**, which was dismissed by the Hon'ble Supreme Court on **20.05.2015**.

8. 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 by the counsel for the Union of India in the case of **Baldev Singh vs. Union of India & 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 applicant held entitled to the benefit from 01.01.2006.

9. We are abreast, that subsequently the Hon’ble Supreme Court in **CA Nos 5478, 5479 and 5480 of 2011, ‘Union of India & Ors Vs. Sohan Lal Bawa and others’** decided on **07.07.2011**, made an observation that, only a Havildar granted Honorary rank of Naib Subedar prior to retirement, would be entitled to such benefits. That judgment has also been read with the relevant rule position by this Tribunal in **OA No 1327 of 2011, ‘Raghbir Singh & Ors Vs UOI & Ors’** decided on **21.10.2011**, upholding the entitlement providing that the legal position is not affected due to Honorary rank of Naib Subedar being granted only after retirement. The Union of India filed **Review Petition (Civil) No. 265 of 2013** which was dismissed by the Hon’ble Supreme Court vide order dated **06.03.2013**. As such, the legal position as decided in **Virender Singh’s case (Supra)** and as clarified in **Raghbir Singh’s case (Supra)** remains unchanged.

10. The plea of the respondents to restrict the arrear to six months holds no water and is, therefore, rejected. The Supreme Court however clarified, that ***“no interest shall be payable”*** in such cases.

11. The controversy in this case is admittedly covered by the judgments aforesaid and there is no reason as to why the benefit as claimed by the applicant in the present OA, should be denied to them.

12. Based on the judgments of the Hon’ble Supreme Court mentioned here-in-above, we dispose of the present O.A. with the directions to the

respondents to release the service pension to the applicant in the rank of Naib Subedar w.e.f. 01.01.2006 within a period of three months from the date of receipt of a certified copy of this order by the representative of the respondents. It is, however, made clear that no interest on the arrears shall be admissible as already settled by the Honourable Supreme Court. In case the compliance is not made by the respondents within the stipulated time, as stated here-in-above, interest @ 8% shall accrue to the applicants from the date of this order.

13. The OA is allowed and disposed of in terms of the observations and directions given here-in-above, subject to verification of the factual matrix by the respondents.

14. No order as to costs.

(Mohammad Tahir)
Member (J)

(Virender Singh)
Chairperson
(As Administrative Member)

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