

**RESERVED****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW  
(CIRCUIT BENCH AT NAINITAL)****O.A. No. 295 of 2018**Thursday, the 02<sup>nd</sup> day of August 2018**“Hon’ble Mr. Justice S.V.S. Rathore, Member (J)  
Hon’ble Air Marshal BBP Sinha, Member (A)”**No. 1431824N Ex Havildar/Hony Naib Subedar Keshar Singh S/o  
Late Sri Ratan Singh R/o Village Badiyakot P.O. Badiyakot, Distt  
Bageshwar.

.... Applicant

Learned Counsel for      **-Shri C.S. Rawat, Advocate**  
the Applicant

Verses

1. Union of India through Secretary, Ministry of Defence, Central Civil Secretariat, New Delhi.
2. Chief of the Army Staff, Integrated Headquarters, Ministry of Defence (Army), New Delhi.
3. Director Pension/Policy, Government of India Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi.
4. Record Officer, Bengal Engineer Group (B.E.G.) Roorkee.
5. P.C.D.A.P. (Pension), Allahabad.

...Respondents

Learned counsel for -      **Shri Asheesh Agnihotri,**  
the Respondents              Ld. Counsel for Central Govt.

**“Per Hon’ble Air Marshal BBP Sinha, Member (A)”**

1. The instant Original Application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for grant of pension in the rank of Honorary Naib Subedar.

2. Counter affidavit filed by Ld. Counsel for the respondents is taken on record.

3. Heard the learned counsel for the parties and perused the record.

4. Undisputed factual matrix of the case is that the applicant was enrolled in the Army on 08.02.1963 and discharged from service on 28.02.1987 under Rule 13 (3) (III) (i) of Army Rules, 1954. After discharge, he was granted Honorary rank of Naib Subedar on 15.08.1987. Grievance of the applicant is that he should be given pension as applicable to the rank of Honorary Naib Subedars retired on or after 01.01.2006 as per recommendations of 6<sup>th</sup> Pay Commission. Ld. Counsel for the applicant contended that the applicant is entitled for revision of pension in the light of MoD letter dated 12.06.2009 as per VI<sup>th</sup> C.P.C. but the same was not granted by the respondents. The applicant made a representation to the appropriate authority which did not see the light of the day. This claim having been denied by the respondents, the present Original Application has been filed.

5. Admittedly the applicant has been granted Honorary rank of Naib Subedar after retirement as conceded by the respondents in

Para 3 of their counter affidavit, hence he is entitled for pension of the rank of Honorary Naib Subedar.

6. We find that the controversy involved in the Present O.A. is squarely covered by the decision of Armed Forces Tribunal, Regional Bench, Chandimandir in O.A. No. 42 of 2010, **Virender Singh & Ors vs. Union of India & Ors** dated 08.02.2010 which attained finality with dismissal of the SLP (C) CC No. 18582 of 2010, titled **UOI & Ors vs. Virender Singh & Ors** on 13.12.2010 by the Apex Court. This fact could not be disputed by the learned counsel for the respondents. In that case it has been held that pre 01.01.2006 retirees will also be entitled to get pension at the enhanced rate w.e.f. 01.01.2006, as is being paid to post 01.01.2006 retirees.

7. We further take note of the fact that the matter has been finally settled by the Apex court in **Union of India & Ors vs. Subbash Chander Soni**, Civil Appeal No. 4677 of 2014, decided on 20.05.2015 and a clarification has been given that no interest shall be payable in such cases. For the sake of convenience, the said judgment is reproduced below:-

*“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 08.02.2010 rendered in O.A. No. 42 of 2010 titled ‘Virender Singh & Ors v. U.O.I. & Ors’, 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 O.A.s 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.”*

8. We dispose of the present O.A. in terms of the above judgments with a direction to the respondents to release the enhanced pension in the rank of Honorary Naib Subedar w.e.f. 01.01.2006 in the light of Govt of India, Min of Defence letter No 1 (8)/2008-D (Pen/Policy) dated 12.06.2009 within a period of four months from the date of receipt of certified copy of this order, further making it clear that no interest shall be admissible and payable to the applicant in this regard. In case this order is not complied with within the stipulated period, the amount of arrears shall carry interest @ 9% per annum from the due date, till actual payment thereof.

No order as to costs.

**(Air Marshal BBP Sinha)**  
**Member (A)**

**(Justice SVS Rathore)**  
**Member (J)**

Dated : August, 2018  
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