

Court No. 3

(Ser No 6)

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****ORIGINAL APPLICATION No 194 of 2022**Monday, this the 06th day of February, 2023**Hon'ble Mr. Justice Anil Kumar, Member (J)****Hon'ble Vice Admiral Atul Kumar Jain, Member (A)**

No 14522278A Hony Nb Sub Shiv Mohan Tiwari (Retd), S/o Shri (Late) Shiv Safar Tiwari, R/o Vill-Katra Diwan Kherha, PO-Osian (Bighapur), Tehsil-Bighapur, District-Unnao (Uttar Pradesh)-229503.

...Applicant

Counsel for the applicant: Shri Ravi Kumar Yadav, Advocate

Versus

1. Union of India, through Secretary, Ministry of Defence (Army), South Block, New Delhi.
2. Chief of Army Staff, Integrated Headquarters, Ministry of Defence, South Block-III, New Delhi-110011.
3. The Officer-in-Charge, EME Records, PIN-900453, C/o 56 APO.
4. PCDA (P) (Army), Draupadighat, Allahabad-211014 (UP).
5. The Chief Manager, CPPC Punjab National Bank, CDA Complex, Draupadi Ghat, Allahabad (UP)-211014.
6. The Manager, Punjab National Bank, Bighapur, NH232-A, Unnao, Raibareilly Road, Distt-Unnao.

.... Respondents

Counsel for the Respondents : Shri Anurag Mishra, Advocate
Central Govt Counsel.

ORDER (Oral)

1. By means of the present O.A., the applicant has approached this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 praying for the following reliefs:

- (a) *To issue order or direction to the respondents to grant actual arrears of revised pension to the applicant in terms of Circular No 631 from 01.01.2006 to 30.06.2014 in terms of Circular 555 from 01.07.2014 to 31.12.2015 and thereafter in terms of 7th CPC from 01.01.2016 to 30.09.2021 and DA accrued thereupon from time to time along with due drawn statement and suitable interest within time limit as deemed fit by the Hon'ble Tribunal.*
- (b) *Any other relief as considered proper by the Hon'ble Tribunal be awarded in favour of the applicant.*

2. Brief facts of the case are that the applicant was enrolled in the Army on 05.05.1975 and was discharged from service w.e.f. 31.05.1999 (AN) on fulfilling terms of enrolment under Rule 13 (3) III (i) of Army Rules, 1954 having completed 24 years and 27 days service. After discharge from service he was conferred the Honorary rank of Naib Subedar on 15.08.1999. Consequent to discharge from service he was granted service pension w.e.f. 01.06.1999 vide PPO No S/010171/99 (Army) dated 14.02.1999. His service pension was revised from time to time. Applicant has filed this O.A. for grant of actual arrears in terms of Circular No 631 w.e.f. 01.01.2006 to 30.06.2014, Circular No 555 w.e.f. 01.07.2014 to 31.12.2015 and thereafter in terms of 7th CPC w.e.f. 01.01.2016 to 30.09.2021 along with accrued DA and interest.

3. Heard Shri Ravi Kumar Yadav, learned counsel for the applicant and Shri Anurag Mishra, learned counsel for the respondents and perused the record.

4. Facts with regard to applicant's enrolment in the Army, discharge from service and conferment of Honorary rank are not disputed by the parties. Applicant's grievance is that he has not been paid his due arrears and accrued DA thereon. The applicant has also prayed for grant of interest on delayed payment of arrears.

5. No. 14522278A Ex Hav (Honorary Naib Subedar) Shiv Mohan Tiwari was discharged from service on 31.05.1999 (AN). He was awarded Honorary rank of Naib Subedar on 15.08.1999. Accordingly, as per respondents he was granted following:-

(i) Service pension in the rank of Havildar for life w.e.f. 01.06.1999 vide PPO No S/010171/99 (Army) dated 14.02.1999 which was amended vide Corrigendum PPO No S/CORR/063811/99 (Army) dated 13.06.1999.

(ii) Service pension in the rank of Honorary Naib Subedar w.e.f. 15.08.1999 vide PPO No S/CORR/034834/1999 (Army) dated 23.12.1999.

(iii) Revised service pension in the rank of Honorary Naib Subedar vide PPO No S/CORR/6th CPC/370502/2013 dated 31.12.2013.

(iv) Death-cum-retirement gratuity amounting to Rs 85,173/-, commutation Rs 1,87,627/- and maturity benefits under AGI Rs 54,433/-.

6. During the course of hearing, learned counsel for the respondents submitted that comments were asked from PCDA (P), Prayagraj and in reply they have intimated vide letter dated 25.04.2022 (Annexure No 1 to counter affidavit) that applicant's due arrears have been paid. We have perused the aforesaid reply and we find that applicant's dues have been rightly granted by PCDA (P), Prayagraj as per circulars on the subject issued based on Govt policy in vogue. For convenience sake, relevant extracts of letter dated 25.04.2022 are reproduced as under:-

"Ex No 14522278A was granted service pension Rs 2375/- pm w.e.f. 01.06.1999 for the rank for the rank of Hav, Gp-Y having QS-24 yrs and 27 days vide this office PPO No S/010171/1999. Further he was granted rank of Hony-Nb Sub vide this office Corr PPO No S/Corr/034834/1999 after retirement. Further this office has issued circular No 631 dated 05 Mar 2020 for revision of pension of Hony Nb Sub w.e.f. 01.01.2006 and necessary instructions have been issued to PDAs by this office time to time for revision of pension of all affected cases.

The applicant has been granted the rank of pension as Hony Nb Sub not regular Nb Sub. These two ranks are not equivalent.

Revised rates of pension to the pensioner are as below:-

- 1. Rs 8330/- p.m. w.e.f. 01.01.2006 as per this office circular No 631 dated 05 Mar 2020.*
- 2. Rs 8425/- p.m. w.e.f. 01.07.2014 as per this office circular No 555 dated 04.02.2016.*
- 3. Rs 21,653/- p.m. w.e.f. 01.01.2016 as per this office circular No 570 dated 31.10.2016.*

All PDAs have been issued necessary instructions for revision of pension vide this office circulars issued from time to time.

Further as seen from the bank scroll individual has been paid arrears of pension Rs 1,44,651/- (Oct 2021) and Rs 70,650/- (Mar 2022), a due-drawn statement may please be sought from the concerned PDA."

7. Thus, from the aforesaid, it is crystal clear that PCDA (P), Prayagraj has revised his pension as per his entitlement based

on circulars issued from time to time and all PDAs have been authorized to revise pension accordingly.

8. We find that despite granting sufficient opportunities, respondent No. 5 and 6 have failed to file counter affidavit. On 17.01.2023 order was passed and opportunity for filing counter affidavit in respect of respondent No. 5 and 6 was closed.

9. On perusal of PCDA (P), Prayagraj letter referred above, we find that respondent Nos. 1 to 4 have done their job but it is the PDA i.e. The Manager, Punjab National Bank Bighapur, JH-232, Unnao, Raebareilly Road, District-Unnao (UP) who has failed in discharging the duty which has resulted in redundant litigation.

10. In view of the above, respondent No. 5 and 6 are directed to scrutinize all details and pay applicant's dues as per PCDA (P), Prayagraj letter dated 25.04.2022 within a period of three months from today. Default will invite interest @ 8% p.a.

11. In view of the above, O.A. is disposed of.

12. No order as to costs.

13. Miscellaneous application(s) pending if any, stand disposed of.

(Vice Admiral Atul Kumar Jain)
Member (A)

Dated :06.02.2023

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(Justice Anil Kumar)
Member (J)