

**ARMED FORCES TRIBUNAL, REGIONAL BENCH
LUCKNOW**

-.-
O. A. No. 281 of 2019

Wednesday, the 16th day of October, 2019

CORAM:

**HON'BLE MR JUSTICE MOHAMMAD TAHIR, MEMBER (J)
HON'BLE AIR MARSHAL BBP SINHA, MEMBER (A)**

Ex Hav (Hony Nb Sub) Mool Chandra Applicant
(By Shri Virendra Kumar Gupta, Advocate)

Versus

Union of India and others Respondents
(By Shri RC Shukla, CGC)

ORDER

1. The applicant is a pre-01.01.2006 retiree and at the time of his retirement, he was granted the Honorary rank of Naib Subedar.
2. By means of the present application, filed under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant seeks a direction to the respondents for release of the revised pension in the rank of Honorary Naib Subedar w.e.f. 01.01.2006.
3. **Notice.**
4. Shri RC Shukla, learned counsel for the respondents accepts notice on behalf of the respondents and does not controvert the factual aspect 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 have 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 AFT, Chandigarh in O.A. No. 42 of 2010 titled **Virender Singh and others vs. 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 vs. Virender Singh and others** decided on 13.12.2010 and is consistently being followed in similar cases. Subsequently, AFT, Chandigarh in another case, O.A. No. 3146 of 2013, '**Baldev Singh vs. Union of India & others**', decided the case (along with 33 connected O.A.s) 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 and, thus, the view taken by AFT, Chandigarh 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 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 petitioner held entitled to the benefit from 01.01.2006, however, clarifying that no interest shall be payable in such cases. The entire order is reproduced below:-

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 O.A. No. 42 of 2010 titled as 'Virender Singh & Ors. vs. UOI' where identical relief was granted to the petitioners therein who were similarly situated. Further, we note that against the said -3- 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.As 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 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 Honorary Naib Subedar w.e.f. 01.01.2006 within a period of four 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. However, in case compliance is not made by the respondents

within the stipulated time as stated here-in-above, interest @ 8% shall accrue to the petitioner from the date of this order.

11. The O.A. 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.

(Air Marshal BBP Sinha)
Member (A)

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(Justice Mohammad Tahir)
Member (J)