

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**Original Application No 208 of 2020****Monday, this the 20th day of September, 2021****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

No. 13888680-M Ex Havildar Mohammad Aziz Khan
 S/o Shri Imam Bakhsh
 R/o House No. 544/470/01,
 Mohalla Samnan Garden Gali No. 2,
 Baraura Husain, Bari Campwell Road,
 Lucknow (UP) – 226003

..... Applicant

Ld. Counsel for the Applicant: **Shri R. Chandra**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence Govt. of India, New Delhi-110011.
2. Chief of the Army Staff, Integrated Headquarters of Ministry of Defence (Army) DHQ Post Office, New Delhi – 110011
3. The Officer-in-Charge, Army Service Records (South), Bangalore – 560007.
4. PAO (OR) ASC (South), Bangalore – 560007.

..... Respondents

Ld. Counsel for the Respondents : **Ms. Anju Singh**,
Central Govt Counsel.**ORDER**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

- “(i) The Hon'ble Tribunal may be pleased to issue a suitable order or direction to the respondents to revise correct basic pay of the applicant w.e.f. 1st February 1997 to date

of discharge i.e. 30/06/2001 after adding correct increment in applicant's basic pay.

- (ii) The Hon'ble Tribunal may be pleased to direct the respondents to grant equal basic pay to the applicant in parity of his batchmate/junior No. 13888681-P Hav Nisar Ahmed from February 1997 to 30/06/2001 with all consequential benefits along with 18% interest on the arrear.
- (iii) Pass any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."

2. The brief facts of the case are that applicant was enrolled in the Indian Army on 22.01.1981. He was promoted to the rank of Naik on 14.02.1997 and his basic pay was fixed at Rs. 3465/-. Further, due to trade rationalisation, the applicant's pay was fixed as Rs. 3510/- w.e.f. 10.10.1997 in revised pay scale. The applicant was promoted to the rank of Havildar on 17.09.1999 and his basic pay was fixed at Rs. 3700/-. The applicant was discharged from service on 30.06.2001 at his own request, before completion of terms of agreement and his last basic pay at the time of retirement was @ Rs. 3800/- per month. The applicant is comparing his basic pay in the same grade of Havildar with his counterpart No. 13888681 Hav/MT Nisar Ahmed and stated that respondent No. 4 has credited one increment less of Rs. 100/- in basic pay of the applicant. The applicant raised his grievances and submitted several letters with regard to variation of Rs. 200/- in basic pay fixation in comparison to Hav Nisar Ahmed as on 02/2001 but no action was taken by the respondents and applicant was discharged from service on 30.06.2001 without getting correct basic pay at the

time of retirement. Being aggrieved, the applicant has filed the present Original Application.

3. Learned counsel for the applicant submitted that applicant was enrolled in the Indian Army on 22.01.1981. He was promoted to the rank of paid acting Naik on 14.02.1997 and one increment was due in February 1997 and his total basic pay in the month of October 1997 should be 3510/- and in the month of October 1998, it has been granted only Rs. 3510/- per months instead of Rs. 3610/-. In this connection unit of the applicant took up a case with respondent No. 4 vide letter dated 07.08.1999 but no action was taken by the respondents. On 06.11.1999, unit again issued a reminder to respondent No. 4 but no action was taken on his reminder also. On 08.11.2000, 5133 ASC Bn (MT), i.e. unit of the applicant represented his case to respondent No. 4 as per quarterly statement of account for quarter ending 8/2000 stating that basic pay of the applicant should be Rs. 3700/- crediting one increment of Rs. 100/- less in the basic pay of the applicant in comparison to No. 13888681-P Hav/MT Nisar Ahmed who was promoted to the rank of Havildar w.e.f. 17.01.1999 and he was taking basic pay Rs. 3900/- per month whereas applicant was promoted to the rank of Havildar on 17.09.1999 and was granted basic pay of Rs. 3700/- but respondent No. 4 did not take any action with regard to stepping up basic pay of the applicant. During discharge drill in Depot Coy, ASC Centre (South), Bangalore applicant raised his grievance with regard to variation of Rs. 200/- in basic pay fixation in comparison to Hav Nisar Ahmed as on 02/2001 but no action was taken by the respondents and applicant was

discharged from service on 30.06.2001 without getting correct basic pay at the time of retirement. He pleaded to revise correct basic pay of the applicant w.e.f. 01.02.1997 to 30.06.2001 in comparison to Hav Nisar Ahmed and grant arrears accordingly.

4. Learned Counsel for the respondents submitted that applicant was promoted to the rank of Naik on 14.02.1997 and his basic pay was fixed at Rs. 3465/-. Further, due to trade rationalisation, the applicant's pay was fixed as Rs. 3510/- w.e.f. 10.10.1997 in revised pay scale. The applicant was promoted to the rank of Havildar on 17.09.1999 and his basic pay was fixed at Rs. 3700/-. The applicant was discharged from service on 30.06.2001 at his own request, before completion of terms of agreement and his last basic pay was fixed @ Rs. 3800/- per month. The applicant is comparing his basic pay in the same grade of Havildar with his counterpart No. 13888681 Hav/MT Nisar Ahmed and stated that respondent No. 4 has credited one increment less of Rs. 100/- in his basic pay. Further it is submitted that Hav Nisar Ahmed was promoted to the post of Naik on 01.08.1995 and Havildar on 27.01.1999 which is much earlier than that of applicant's date of promotion and thus, his basic pay was fixed correctly. Hence, the applicant cannot seek stepping up of pay with Hav Nisar Ahmed who is senior to the applicant in the rank of Naik as well as in Havildar.

5. Learned counsel for the respondents further submitted that fixation of basic pay on promotion to the rank of Naik and Havildar was done based on the date of promotion and accordingly increment was given to the applicant and also to Hav Nisar Ahmed and no bias

has been done to the applicant as alleged with Hav Nisar Ahmed. Therefore, he submitted that the application may be dismissed as there is no involvement of stepping up in this case.

6. Heard learned counsel for the parties and perused the relevant documents available on record.

7. It is emerged from the above that the applicant was promoted to the rank of Naik on 14.02.1997 and Havildar on 17.09.1999 whereas Hav Nisar Ahmed was promoted to the post of Naik on 01.08.1995 and Havildar on 27.01.1999 which is much earlier than that of applicant's date of promotion and thus, his basic pay was fixed correctly giving extra increment being senior in promotion for about 1½ years in Naik and 8 months in Havildar.

8. We find that applicant's last basic pay drawn in the rank of Havildar is 3800/- and not 3700/- as mentioned by the applicant in his O.A. Hence, there is only difference of one increment of Rs. 100/- on promotion to the rank of Havildar which has rightly been given to Hav Nisar Ahmed who is eight months senior to applicant in promotion to Havildar rank and accordingly, he was granted one increment of Rs. 100/- as due to him.

9. In view of the above, we do not find any irregularity or illegality in granting one increment of Rs. 100/- in fixation of basic pay to Hav Nisar Ahmed and thus, Basic pay of the applicant on promotion to Havildar on 17.09.1999, fixed at Rs. 3700/- (last basic pay at the time of retirement Rs. 3800/-) is quite correct.

10. In the result, the O.A. deserves to be dismissed. It is accordingly **dismissed**.

11. No order as to costs.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated: Sept., 2021
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