

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 283 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)

JC- 470166M Sub (Hony Lt) Bhuri Singh, S/o Shri (Late) Ram Swaroop, R/o Village – Utra, Post – Utra, Tehsil – Atrauli, District- Aligarh (U.P.)- 202129.

.....Applicant

Ld. Counsel for : **Shri Shailendra Kumar Singh,**
Applicant **Advocate**

Versus

1. The Union of India, through the Secretary, IHQ of Min of Def(Army) , South Block, New Delhi- 110001.
2. The Chief of Army Staff, Integrated Headquarters of the Ministry of Defence (Army), DHQ PO, New Delhi - 110011.
3. Adjutant General Branch (Infantry-6), IHQ of MoD (Army), DHQ PO, New Delhi- 110011.
4. OIC Records, Records Rajputana Rifles, PIN-900106, C/o 56 APO.
5. PAO (OR) Rajputana Rifles , Delhi Cantt, New Delhi – 110010.
6. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad (U.P.)- 211014.

.....Respondents

Ld. Counsel for the : **Shri Amit Jaiswal,**
Respondents **Central Govt Counsel**

ORDER

“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”

1. This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 whereby the applicant has claimed the following reliefs:-

(A). To impose a suitable rate of interest on the arrears paid to the applicant by the respondents with effect from 30 Apr 2014 as the same has been paid to him without interest and after more than three years of his discharge from service.

(B). To impose a suitable cost on Respondent No 5 for non issuance of Final Settlement of Account in time without any valid reasons, due to which applicant could not get his correct pensionary benefits even after a period of three years after his discharge from service.

(C) Any other relief as considered proper by the Hon’ble Tribunal be awarded in favour of the applicant.

2. The undisputed factual matrix on record is that the applicant was enrolled in the Indian Army on 15.04.1986 and was discharged from service 01.05.2014 in the rank of Subedar (Hony Lt) on completion of terms of engagement after rendering 28 years and 16 days of service. Applicant was granted service pension to the rank of Subedar wef 01.05.2014 vide PPO No S/21466/2014 dated 26 Mar 2014 but no payment was made to him. Applicant approached the respondents for grant of pension and other dues. On 25.09.2017 applicant was served a copy

of another PPO No S/Corr/27963/2017 and paid the pensionary benefits after three years of applicant's retirement. Being aggrieved, the applicant has approached this Tribunal for grant of interest on the arrears paid to him after a period of more than three years from the date of retirement.

3. Learned Counsel for the applicant submitted that applicant was retired from service on 01.05.2014 on completion of terms of engagement in the rank of Subedar (Hony Lt). On retirement he was issued PPO No S/21466/2014 dated 26 Mar 2014 but no payment was made to him. Applicant was granted rank of Hony Lt on 26.01.2014 on the eve of Republic Day while in active service. Applicant wrote number of letters to respondents for grant of pension and other dues but no final settlement of accounts was issued to the applicant. On 25 Sep 2017, Corrigendum PPO was issued and applicant was paid his dues without any interest on the arrears accrued there upon. Learned counsel for the applicant prayed that suitable directions be issued to the respondents to pay interest on delayed payment till it was actually paid.

4. Per contra, learned counsel for the respondents submitted that applicant was granted service pension vide PPO dated 26 March 2014. As per office records, Ex Sub (Hony Lt) Bhuri Singh was diagnosed with "Pulmonary Tuberculosis" on 10 August 1999. During the course of treatment a provisional Medical Board was held at Military Hospital Namkum on 28 September 1999 in terms of Army order 150/75 and Govt of India, Min of def letter dated 18 July 1974 and applicant was downgraded to Low Medical Category CEE (Temporary) and his Medical Board Proceedings was forwarded to PCDA (P), Allahabad for grant of Pending Enquiry Award (PEA) in advance. Accordingly, Pending Enquiry Award @ Rs. 1725/- per month was sanction by PCDA (P) Allahabad vide Memo dated 04.01.2000 to the applicant provisionally to avoid financial hardship to applicant in case medical invalidment of the JCO takes place. Thereafter, applicant was again downgraded to low medical category CEE (Temporary) with effect from 19.01.2000 for six months by Mil Hospital, Namkum. However the applicant was brought before medical board on 19.07.2000 which upgraded his medical category to BEE (Temporary) and subsequently medical board held on 19.01.2001, the applicant was upgraded to medical category

SHAPE-1. It is clarified that diagnosis of the applicant was cured, hence, Pending Enquiry Award (PEA) was not paid to the applicant. Since the applicant was upgraded to medical category SHAPE-1, he was retained in service till he was discharged from service on 30.04.2014.

5. Learned counsel for the respondents further submitted that applicant was granted Hony rank of Lt on active list on 26.01.2014. While processing the claim of Pensionary benefits of Hony Lt, PAO (OR) RAJ RIF observed that the JCO was granted Pending Enquiry Award and returned the claim for regularising the amount paid to the applicant. It was clarified that the applicant was upgraded to SHAPE-1, prior to the stipulated time frame and the applicant was not invalided out from service. Therefore, no Pending Enquiry Award (PEA) was paid to the applicant and a certificate to this effect was endorsed in Sheet Roll, hence question of regularization of PEA does not arise in the instant case.

6. Learned counsel for the respondents further submitted that as per Para 2 (c) of Army Headquarters letter dated 24.07.1976, the applicant was required to be invalided out from service with effect from 28.09.2000, if he was not found fit for further service on completion of the stipulate period i.e. 12

months from the date of Medical Board. However, the applicant was upgraded to Medical Category BEE (Temporary) on 19.07.2000 for six months i.e. before completion of 12 months as stipulated and further upgraded to medical category SHAPE-1 on 19.01.2001. The final statement of account was re-submitted to PAO (OR) by Records, RAJ RIF vide letter dated 06.12.2016, however, PAO (OR) RAJ RIF denied to authenticate the LPC cum data sheet twice. Since the audit authority i.e. PAO (OR) RAJ RIF sought clarification on issues related to audit, the case was finalized after receipt of direction from PCDA (Western Command), Chandigarh in May 2017 and PAO (OR) RAJ RIF released a sum of Rs. 6,92,456/- on account of credit balance and Rs. 10,68,311/- on account of AFPP Fund through tender memo on 19.06.2017 to the applicant. Learned counsel for the respondents submitted that in view of the facts and circumstances stated above, the applicant is not entitled for any interest and as such, the Original Application filed by the applicant has no substance and lacks merit and is liable to be dismissed.

7. We have heard learned counsel for the parties and perused the record.

8. The question before us for consideration is straight, whether applicant is entitled for grant of interest on account of three years late payment of arrears due to him?

9. After considering all issues we have noted that Sub (Hony Lt) Bhuri Singh was retired from service on 01.05.2014 and it was responsibility of the respondents to pay his dues at the time of retirement i.e. on 01.05.2014 but the same was paid in June 2017. Prime reason for delay in payment of dues was internal failure on part of PAO (OR) Raj Rif and PCDA (P) Allahabad. Applicant was paid his dues only after intervention of PCDA (Western Command). Chandigarh.

10. In the above scenario, we are clear that PAO (OR) RAJ RIF cannot wash off their hands by saying that we have paid the arrears to the applicant in June 2017 and we have no liabilities now. This is a prime case of gross negligence and poor service by the PAO (OR) RAJ RIF. Hence, it will be in the interest of justice to pay interest on the delayed payment of arrears to the applicant as per RBI guidelines on the subject.

11. In view of the above the Original Application deserves to be allowed.

12. Accordingly, O.A. is **allowed**. The respondents are directed to grant interest on delayed payment of arrears from the date of retirement till it was actually paid @ 8% per annum. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. In case the respondents fail to give effect to this order within the stipulated time, they will have to pay interest @ 8% on the amount accrued from due date till the date of actual payment.

13. No order as to cost.

14. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.

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

Dated : 20 September, 2021

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