

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW**

Original Application No. 252 of 2016

Monday, this the 22nd day of May 2017

Hon'ble Mr. Justice D.P. Singh, Member (J)
Hon'ble Lt Gen Gyan Bhushan, Member (A)

No. 2980303H Ex Hav (Hony Nb Sub) Nar Singh, of 5 Mechanised Infantry, C/O 56 APO son of Late. Hira Singh, resident of Village – Pinglon, Post – Pinglon, Tehshil – Garur, District – Bageshwar (Utrakhand), Pincode- 263635.

.....Applicant

Ld. Counsel for the Applicant : **Shri KKS Bisht, Advocate**

Versus

1. Union of India, through the Secretary, Ministry of Defence, Central, South Block, New Delhi -110011.
2. Chief of the Army Staff, Integrated Headquarters of the Ministry of Defence (Army), South Block, New Delhi.
3. Officer-in-Charge Records, The Mechanised Infantry Regiment, PIN -900476, C/O 56 APO.
4. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad (U.P.) - 211014.

.....Respondents

Ld. Counsel for the Respondents : **Shri AK Sahu,**
Ld. Counsel for Central Govt.

See



ORDER (Oral)

M.A. No. 820 of 2017

Counter affidavit filed by learned counsel for the respondents is taken on record. M.A. aforesaid is disposed off accordingly.

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant for grant of pension in the rank of Hony Naib Subedar.
2. Heard the learned counsel for the parties and perused the record alongwith Maj Piyush Thakran, Depatmental Representative and with the consent of learned counsel for the parties, we proceed to decide the present application at this stage itself
3. Undisputed factual matrix of the case is that the applicant was enrolled in the Army on 20.12.1980 and was discharged on 01.01.2005. After discharge, he was granted honorary rank of Naib Subedar. Grievance of the applicant is that he should be given pension as applicable to the rank of Hony Naib Subedars retired on or after 01.01.2006 as per recommendations of VIth Central Pay Commission. Applicant has moved a representation on 26.11.2015 before the respondent No. 3, which is still pending. Being aggrieved, the present Original Application has been filed.
4. 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 the case of **Virender Singh & Ors vs. Union of India & Ors (O.A. No. 42 of 2010)**, decided on 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 Hon'ble 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.
5. We further take note of the fact that the matter has been finally settled by Hon'ble The Apex Court in the case of **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

Bel



payable in such cases. For the sake of convenience, the said judgment is reproduced below :-

“In the Supreme Court of India
Civil Appellate jurisdiction

Civil appeal No. 4677 of 2014

Union of India & Ors.

Appellant(s)

Versus

Subhash Chander Soni

Respondent(s)

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 08.02.2010 rendered in O.A. No. 42 of 2010 titled 'Virender Singh & Ors v. U.O.I.'; 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.

sd/- [Hon'ble Mr. Justice A.K. Sikri]

sd/- [Hon'ble Mr. Justice Uday Umesh Lalit]

Date: 06.03.2015

May 20, 2015”

6. We dispose of the present Original Application in terms of the above judgments with a direction to the respondents to release the enhanced service pension to the applicant in the rank of Hony 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, 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.
7. No order as to costs.

Ghushan
22.5.17

(Lt Gen Gyan Bhushan)
Member (A)

D.P.S.
(Justice D.P. Singh)
Member (J)

Dated: 22nd May, 2017

RS/-