

**Court No 1**  
**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**O.A. No. 567 of 2017**

Monday, the 18<sup>th</sup> day of December 2017

**Hon'ble Mr. Justice D.P. Singh, Member (J)**  
**Hon'ble Air Marshal BBP Sinha, Member (A)**

No 4168999-X Ex-Hav (Hony Nb Sub) Balak Singh Negi S/o Late Bhawan Singh, resident of Village-Harsan (Dhuria Chain), Post Office-Haripura Harsan, Tehsil-Bajpur, District-Udham Singh Nagar (Uttarakhand), Pincod-262401.

.... Applicant

Learned Counsel for      **-Shri K.K.S. Bisht, Advocate**  
the Applicant

Verses

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Chief of the Army Staff, Integrated Headquarter of the Ministry of Defence (Army), South Block, New Delhi-110011.
3. Officer-in-Charge Records, The Kumaon Regiment, Ranikhet-263645.
4. Principal Controller Defence Accounts (Pension), Draupadi Ghat, Allahabad (U.P.)-211014

...Respondents

Learned counsel for -      **Ms Deepti P. Bajpai,**  
the Respondents           **Ld. Counsel for Central Govt,**  
   **assisted by Maj Salen Xaxa,**  
   **OIC Legal Cell.**

**ORDER (Oral)**

1. Counter affidavit filed by the respondents is taken on record.
2. The instant Original Application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for grant of pension of Naib Subedar.
3. Heard Shri KKS Bisht, Ld. Counsel for the applicant and Ms Deepti P. Bajpai, Ld. Counsel for the respondents assisted by Maj Salen Xaxa, OIC Legal Cell and perused the record.
4. Undisputed factual matrix of the case is that the applicant was enrolled in the Army on 23.12.1976 and was discharged from service on 31.12.2000. After discharge, he was granted honorary rank of Naib Subedar on 26.01.2001. Grievance of the applicant is that he should be given pension as applicable to the rank of Naib Subedars retired on or after 01.01.2006 as per recommendations of 6<sup>th</sup> Pay Commission. Ld. Counsel for the applicant contended that the applicant is entitled for revision of pension in the light of MoD letter dated 12.06.2009 as per VI<sup>th</sup> C.P.C. but the same was not granted by the respondents. This claim having been denied by the respondents, the present Original Application has been filed.
5. 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 O.A. No. 42 of 2010, ***Virender Singh & Ors vs. Union of India & Ors*** 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 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.

6. We further take note of the fact that the matter has been finally settled by the Apex court in **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 payable in such cases. For the sake of convenience, the said judgment is reproduced below:-

*“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. & Ors’, 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.”*

7. We dispose of the present O.A. in terms of the above judgments with a direction to the respondents to release the enhanced pension in the rank of Naib Subedar based on MoD letter dated 12.06.2009 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 @ 10% per annum from the due date, till actual payment thereof.

No order as to costs.

**(Air Marshal BBP Sinha`  
Member (A)**

Dated : 18 December, 2017  
Rathore

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