

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

**O.A.No. 05 of 2018**

Wednesday, this the 17<sup>th</sup> day of January, 2018

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

Ex Hav (Honorary Naib Subedar) Pandey Shambhu Prasad Sharma  
(No. 13940630-Y), son of late Pandey Bidhu Bhushan Prasad Sharma,  
resident of Plot No. 287, Gaddopur, Shantipuram Near SBI  
Phaphamau, Allahabad-211013 (UP)

.....Applicant

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

Versus

1. Union of India, through the Secretary, Ministry of Defence,  
Government of India, New Delhi-110011
2. The Officer-in-Charge Army Medical Corps, Lucknow-226002
3. Principal Controller of Defence Accounts (Pension), Draupadi  
Ghat, Allahabad (UP)

.....Respondents

Ld. Counsel for the respondents: **Shri Anurag Mishra, CGSC,**  
Assisted by Maj Salen Xaxa, OIC Legal Cell.

**ORDER (Oral)**

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 of Naib Subedar.
2. Heard the learned counsel for the parties and perused the  
record.

3. Since the controversy involved is short, we, with the consent of learned counsel for the parties, proceed to decide the present application at this stage itself.

4. Undisputed factual matrix of the case is that the applicant was enrolled in the Army Medical Corps on 25.10.1975 and was discharged on 31.10.2001 after completing 25 years, 09 months and 15 days of service in the rank of Havildar. 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 6<sup>th</sup> Central Pay Commission. 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 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.

6. We further take note of the fact that the matter has been finally settled by Hon'ble 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:-

*“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”*

7. Admittedly the applicant has been granted honorary rank of Naib Subedar after retirement, hence he is entitled for pension of the rank of Naib Subedar.

8. Accordingly, we dispose of the present petition 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 Naib Subedar, notionally fixed, w.e.f. 01.01.2006 within a period of four months from the date of receipt of a certified copy of this order. However, this shall be subject to further verification by the respondents of the factual pleadings on record with respect to conferment of status of

Hon Nb Subedar on the applicant. It is further made 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 thereof.

9. No order as to costs.

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

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

Dated: 17<sup>th</sup> January, 2018  
LN/-