

Court No. 2
Reserved Judgment

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW
ORIGINAL APPLICATION NO 351 of 2017**

Monday, this the 12th day of February, 2018

Hon'ble Mr. Justice S.V.S. Rathore, Member (J)
Hon'ble Air Marshal BBP Sinha, Member (A)

No. 14324305-N, Hony, Nb/Sub Ram Chet S/o Late
Udai Ray Yadav R/o Vill – Thatta Pur, PO – Ram Nagar,
Teh – Alla Pur, Dist – Ambedkar Nagar, UP - 224181
.....**Applicant**

Ld. Counsel for the : **Shri Parijaat Belaura,**
Applicant **Advocate.**

Verses

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. Chief of Army Staff Integrated Head Quarter Ministry of Defence, South Block New Delhi.
3. Officer In-Charge, Topkhana Abhilekh Arty Records, C/O 56 APO, PIN – 908802.
4. The Principal Controller of Defence Accounts (Pension) Draupadi Ghat, Allahabad (UP).

.....**Respondents**

Ld. Counsel for the : **Shri Namit Sharma,**
Respondents **Advocate,** Central
Govt Standing Counsel
assisted by Maj Rajshri
Nigam, OIC Legal Cell.

ORDER**“Hon’ble Air Marshal BBP Sinha, Member (A)”**

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 Hony Naib Subedar.
2. We have heard the learned counsel for the parties and perused the material facts on record.
3. Salient factual matrix of the case is that the applicant was enrolled in the Army on 10.04.1975 and was discharged on 31.10.1999 after rendering 24 years of service in the Army. After discharge, he was granted honorary rank of Naib Subedar but was paid a paltry amount of Rs 100/- for his Hony Rank of Naib Subedar. The 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 6th Pay Commission. This claim having been denied by the respondents, the present Original Application has been filed.
4. In our view, 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.

5. 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.’, 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.”.

6. Thus, 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 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 thereof.

7. No order as to costs.

(Air Marshal BBP Sinha) (Justice S.V.S. Rathore)
Member (A) Member (J)

Dated: February, , 2018
MH/-