

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No 783 of 2021**Thursday, this the 7<sup>th</sup> day of July, 2022**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**No. 13918504-M Hony Nb Sub Ramesh Singh (Retd)  
S/o Shri (Late) Tej Singh  
R/o 105 Krishna Nagar,  
Distt – Mainpuri – 205001 (UP)

..... Applicant

Ld. Counsel for the Applicant: **Shri Pankaj Kumar Shukla**, Advocate

Versus

1. Union of India, through Secretary, Ministry of Defence (Army), South Block, New Delhi.
2. Chief of the Army Staff, Integrated Headquarter of Ministry of Defence (Army), South Block, New Delhi – 110011.
3. The Officer-in-charge, AMC Records, Lucknow Cantt, Dist – Lucknow (UP) – 226002.
4. PCDA (P) (Army), Draupadighat, Allahabad – 211014 (UP).
5. The Chief Manager, Bank of India CPPC, 2<sup>nd</sup> Floor, Bank of India Building, SV Patel Marg, Nagpur Maharashtra – 440001.
6. The manager, Bank of India, JP Mansion Krishna nagar Branch, Near Bara Chauraha, District – Mainpur (UP) – 205267.

..... Respondents

Ld. Counsel for the Respondents : **Shri Bipin Kumar Singh**,  
Central Govt Counsel &  
**Shri Avdhesh Shukla**,  
Learned Counsel for Respondents  
No. 5&6 (Bank of India)**ORDER (Oral)**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

- “(A) To issue order or directions to the respondents to grant arrears of revised pension to the applicant in terms of Circular No. 555 and 631 alongwith suitable interest within time limit as deemed fit by the Hon’ble Tribunal.
- (B) Any other relief as considered proper by the Hon’ble Tribunal be awarded in favour of the applicant.”

2. The factual matrix on record is that the applicant was enrolled in the Army on 028.08.1969 and was discharged from service on 31.08.1993 (AN) on completion of service limit under Rule 13 (3) III (i) of Army Rules, 1954 after serving 24 years and 04 days of service. The applicant is in receipt of service pension in the rank of Havildar vide PPO dated 12.06.1993 which was revised in the rank of Hony Nb Sub vide corrigendum PPO dated 09.09.1994. The applicant has been extended the benefits for revision of service pension of Hony rank of Naib Subedar w.e.f. 01.01.2006, 01.07.2009 and 27.09.2012 but arrears of service pension has not been properly calculated/paid to the applicant. The applicant had preferred a representation dated 02.02.2021 for revision of his service pension as per PCDA (P) Allahabad circular No. 631 dated 05.03.2020 which has been done by the PDA of the applicant. However, without awaiting reply from PDA, the applicant has filed the present Original Application for revision of his pension.

3. Learned counsel for the applicant submitted that applicant was discharged from the service on 31.08.1993 after rendering 24 years and 04 days of service and later on he was granted Hony rank of Nb Sub on 26.01.1994. The applicant became entitled to arrears of Hony Nb Sub from 01.01.2006 to 30.06.2014 in terms of Circular No. 631 of

March 2020. Total payable amount from 01.01.2006 to 30.06.2014 amounts to Rs. 11,28,124/- as per Due Statement filed alongwith counter affidavit by respondent No. 5 & 6. The applicant had drawn total amount of Rs. 9,26,780/- from 01.01.2006 to 30.06.2014 as per Drawn Statement filed by respondent no. 5 & 6. Therefore, arrears due to the applicant should be difference of Due and Drawn amount from 01.01.2006 to 30.06.2014 which comes to Rs. 2,01,404/- (Rs. 11,28,124/- - Rs. 9,26,780/-) and thus, respondent No. 5 & 6 should have paid Rs. 2,01,414/- to applicant as arrears of Hony Nb Sub in terms of Circular 631. Contrary to this, respondent no. 5 & 6 have wrongly calculated the arrear on the basis of Due and Drawn Statement from Jan. 2006 to 2022.

4. Learned counsel for the applicant further submitted that the Hon'ble Apex Court and various Benches of AFT has pronounced the judgment that any excess amount paid to a pensioner cannot be recovered/adjusted later on and hence, arrears paid in excess to his entitlement, if any, prior to issue of Circular 631 cannot be adjusted in the arrears due from 01.01.2006 to Jun 2014. Hence, applicant is entitled to arrears of Rs. 2,01,404/- in terms of Circular No. 631.

5. Learned counsel for the respondents submitted that as per Govt. of India, Ministry of Defence letter dated 12.06.2009, Pre-01.01.2006 retirees have been extended the benefits for revision of service pension of Havildar granted Hony rank of Naib Subedar w.e.f. 01.01.2006, 01.07.2009 and 27.09.2012, therefore, applicant is also entitled for the benefit of provisions of Govt. of India letter dated 12.06.2009. Based on the ibid policy, PCDA (P) Allahabad has

directed all PDAs to revise service pension of affected Havildars as per Circular No. 631 dated 05.03.2020. PCDA (P) Allahabad has also issued Circular No. 555 dated 04.02.2016 for granting benefit of OROP to the pensioners according to their rank and category. After 7<sup>th</sup> CPC, PCDA (P) Allahabad has issued Circular No. 570 dated 31.10.2016 for revision of pension and accordingly, service pension of the applicant has been revised @ Rs. 21,653/- w.e.f. 01.01.2016 vide Corrigendum PPO dated 27.05.2020.

6. Learned counsel for the respondents further submitted that applicant had preferred a representation dated 02.02.2021 for revision of his service pension as per PCDA (P) Allahabad circular No. 631 dated 05.03.2020. Accordingly, AMC Records had approached PDA of the applicant, i.e. Bank of India, CPPC Nagpur for revision of pension vide letter dated 19.03.2021 with a reminder letter dated 27.12.2021. Without awaiting reply from PDA, the applicant has filed the present Original Application for revision of his pension. The applicant is advised to approach his PDA for revision of his service pension.

7. Learned counsel for the Bank (Respondent No. 5 & 6) submitted that as per PCDA (P) Allahabad letter dated 23.02.2022, applicant's pension has been revised to Rs. 7940/- per month w.e.f. 01.01.2006, Rs. 8425/- w.e.f. 01.07.2014 and Rs. 21,653/- w.e.f. 01.01.2016. A perusal of Due and Drawn Statement of the applicant as per Circular No. 631, 555, 570 w.e.f. 01.01.2006 to Nov. 2021, the applicant has been paid Rs. 32,00,809/-, whereas his total pension works out to Rs. 31,61,130/- and thus, he has been paid an excess

amount of Rs. 39,679/- for which recovery to be paid from the applicant. The prayer of the applicant for revision of his pension is misconceived and deserves to be dismissed.

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

9. We observe that by Due and Drawn statement made by Bank of India from 01.01.2006 to Nov. 2021, the applicant has been paid a total amount of Rs. 32,00,809/- towards his pension, whereas his total pension works out to Rs. 31,61,130/- and thus, he has been paid/drawn an excess amount of Rs. 39,679/-. However, as per applicant, an amount of Rs. 2,01,404/- is due to him as arrears from 01.01.2006 to 30.06.2014 which has wrongly been adjusted while calculating arrears from 01.01.2006 to Nov. 2021 by respondent No. 5 & 6. Thus, after perusing Due and Drawn Statement from 01.01.2006 to Nov. 2021, it appears that some amount paid in excess has been adjusted while calculating arrears from 01.01.2006 to Nov. 2021 and finally an amount of Rs. 39,679/- has been shown as excess payment made to the applicant for which recovery to be made by respondent No. 5 & 6.

10. In this regard, it is clarified that as per the Hon'ble Supreme Court judgment in the case of **Thomas Daniel vs. State of Kerala & Ors**, Civil Appeal No. 7115/2010, decided on 02.05.2022, respondents cannot recover any amount which has been granted/paid to the applicant due to no fault on applicant's part. Therefore, respondents No. 5 & 6 are directed not to recover Rs. 39,679/- as

shown excess amount paid to the applicant while calculating arrears of pension and in the intervening period, if this amount has been recovered from the applicant the same be refunded to the applicant's pension account.

11. With aforesaid directions, Original Application is disposed off finally. The Respondents (Union of India & Others) and Respondents No. 5 & 6 (Bank of India) are directed to comply with the order within a period of three months from the date of receipt of certified copy of the order. Default will invite interest @ 8% per annum from the date of this order till actual payment.

12. No order as to cost.

13. Pending Misc. Application(s), if any, shall stand disposed off.

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

Dated: July, 2022  
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