

Court No.3

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

Original Application No 126 of 2013

Thursday, this the 29th day of October 2015

Hon'ble Mr. Justice D.P. Singh, Member (J)
Hon'ble Air Marshal Anil Chopra, Member (A)

JC 377182-X Subedar (OP CIPH), Satendra Singh
S/O Shri Kalam Singh, Resident of Village-Dabri, Post-
Dabri, District-Pauri Garhwal, State: Uttrakhand.

.....Applicant

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

Versus

1. Union of India, through the Secretary Ministry of Defence, Govt of India, NEW DELHI.
2. Chief of Army Staff, Army Headquarters, DHQ, Post Office NEW DELHI.
3. Officer-In-Charge, Signal Records Jabalpur (M.P.).

.....Respondents

Ld. Counsel for the : **Shri Prakhar Kankan, Central**
Respondents **Govt Counsel assisted by Lt Col**
Subodh Verma, Departmental
Representative for the
Respondents

ORDER (ORAL)

1. Heard Ld. Counsels for the parties and perused the record.
2. This is an application under Section 14 of the Armed Forces Tribunal Act being aggrieved on part of the respondents to extend the service tenure in pursuance to policy letter dated 21.09.1998 followed by letter dated 20.09.2010 later on revised by new policy of 02.03.2012 copy of the policy letter is annexed as Annexure A5 to the C.A.
3. The applicant was enrolled in the army on 31.03.1985 in Corps of Signal. He was promoted to the rank of Havildar on 23.02.1991, Later on he was promoted as Naib Subedar on 01.04.2007 and as Subedar on 01.05.2010.
4. The applicant was placed in low medical category P3 with effect from 22.11.2011 to 09.05.2012 and again he was placed in low medical category P2 (permanent) w.e.f. 08.11.2012. His discharge order was issued by the respondents on 01.01.2013. Submission of the Ld. Counsel for the applicant is that he was entitled for extension of service under new policy. The applicant was completing 28 years of service on 31.03.2013. Attention has been invited to the new policy dated 20.09.2010 is effective from 01.04.2011. For convenience it is reproduced as under in its totality:

Addl Dte Gen Pers Services

Adjutant General's Branch

Integrated HQs of MoD (Army)

6. Plain reading of the policy dated 20.09.2010 shows that the revised policy has been made applicable w.e.f. 01.04.2011 to all concerned and preparatory work to be carried out by Record Offices and Line Dtes. Para 7 of the policy at the face of record shows that the order has been passed directing all concerned to give effect to the policy from 01.04.2011 and carry out necessary work by the required office. Ld. Counsel for the applicant submits that under the procedure meant for the purpose, before 36 months of the retirement screening is done and since the screening was already done, it was not open to give benefits of amended policy dated 20.09.2010. The arguments advanced by Ld. Counsel for the applicant seem to be mis-conceived. The policy dated 20.09.2010 extends certain civil rights i.e. right to livelihood and continuation of service to the army personnel w.e.f. 01.04.2011. Right to livelihood is the fundamental right guaranteed by Article 21 of the Constitution of India. Once the modified policy itself provides benefits of extended service from 01.04.2011 to everyone, then it was the duty of the ministerial and record office to do needful on modified policy for grant of extended benefits to the applicant also.

In view of the above, we are of the opinion that the applicant has been denied the benefits of extension of two years of service which affects his status, pension and monetary gains.

In view of the service rendered in the army by the applicant, O.A. is allowed.

Impugned order of discharge dated 01.01.2013 is set aside. Applicant shall be treated in service upto the extended period of 2 years for the purpose of pensionary and other benefits. However, the applicant shall not be entitled to back wages. The respondents are directed to implement the order within three months from the date of production of certified copy of this order and communicate the decision to the applicant.

No order as to cost.

(Air Marshal Anil Chopra)
Member (A)

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

