

(2019) 11 AFT CK 0020

In the Armed Forces Tribunal

Case No : Original Application No. 1554 Of 2018

Dinesh Kumar Sharma

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 22-11-2019

Acts Referred:

Citation : (2019) 11 AFT CK 0020

Hon'ble Judges : Sunita Gupta, J; Philip Campose, Member (A)

Bench : Division Bench

Advocate : V.S. Kadian, Rajesh Kumar Das

Final Decision : Allowed

Judgement

1. Despite grant of sufficient number of opportunities to the respondents, counter affidavit has not been filed. We do not find any justification for granting further opportunity. Therefore, right of the respondents to file counter affidavit stands closed.

Counsel for the applicant states that the applicant's case is squarely covered by number of judgements, which is not disputed by the counsel for the respondents.

As such, vide separate orders, OA stands disposed of.

By virtue of this OA, the applicant, who was enrolled in the army on 28.09.1977/21.09.1979 and discharged on 30.11.2004 from the rank of Havildar, and was granted the Honorary rank of Naib Subedar (Hony Nb Sub) on the occasion of Republic Day 2006, seeks re-fixing of pension in the rank of Nb Sub w.e.f. 01.01.2006 on the basis of Govt. of India (MoD) letter dated 12.06.2009.

2. We find that the grant of pension to pre-2006 is covered squarely by the order

dated 08.02.2010 of the AFT (RB), Chandigarh in O.A. No. 42 of 2010 titled Virender Singh & Ors. Vs. Union of India & Ors., as affirmed by the Honble Apex Court vide its order dated 13.12.2010, dismissing the appeal of Union of India against the aforesaid order in S.L.P. (C) CC No. 18582 of 2010. Similarly, the Hon'ble Apex Court in Civil Appeal No. 4677 of 2014 titled Union of India & Ors. Vs. Subhash Chander Soni had, vide its order dated 20.05.2015, dismissed the appeal of Union of India against AFT order in O.A. No. 3305/2013. Subsequently, Govt. of India (MoD) has cleared the grant of pension in the rank of Nb Sub to personnel who retired in the rank of Havildar and were granted Honorary rank of Nb Sub vide its letter No. F.A. 3(8)/2013/D (Pension/Legal) dated 30.10.2017.

3. Hence, we allow the instant OA. Subject to verification, respondents shall re-fix the pension of the applicant in the rank of Nb Sub w.e.f.

01.01.2006 on the basis of Government letters dated 12.06.2009 and 30.10.2017, within a period of four months from the date of receipt of a copy of this order. The amount of Rs. 100/- per month, which has already been paid to the applicant after 01.01.2006, shall be adjusted against the due amount as per this order and the payment of that amount shall be discontinued. Non-payment of arrears within a period as stipulated above shall attract interest @ 8% per annum.

4. No order as to costs.