

(2019) 09 AFT CK 0018

In the Armed Forces Tribunal

Case No : Original Application No. 1243 Of 2019, Miscellaneous Application No. 1978 Of 2019

Diwan Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 03-09-2019

Acts Referred:

Citation : (2019) 09 AFT CK 0018

Hon'ble Judges : Sunita Gupta, J;B.B.P. Sinha, Member (A)

Bench : Division Bench

Advocate : Ved Prakash, Ved Prakash

Final Decision : Allowed

Judgement

1. By way of this OA, the applicant seeks refixation of his pension in the rank of Naib Subedar w e.f. 1.1.2006.

Counsel for the respondents submits that before approaching the Tribunal, the applicant has not even made any representation to the competent

authority for granting the relief. Since the case is covered by a catena of decisions passed by different Benches of this Tribunal which have been

upheld by the Hon'ble Supreme Court, therefore, we deem it appropriate to pass the order subject to verification by the respondents.

Vide separate order, OA stands disposed of.

MA 1978/2019

Vide this application, applicant seeks condonation of delay of 5253 days in filing the OA.

In view of the averments made in the application, delay of 5253 days in filing the OA is condoned. Same is taken on the record MA stands disposed

off.

0A1243/2019

Heard.

2. Admit.

3. Issue Notice. Notice is accepted by Mr Anil Gautam, Advocate for the respondents.

4. The applicant was enrolled in the Indian Army on 24.08.1978 and was discharged from service on 31.08 2004, after rendering 26 years and 7 days

of meritorious service. He was granted the Honorary rank of 'Naib Subedar (Hony Nb Sub) vide Dte of General of Ordnance Services, Army

Headquarter letter No. A/23693/RD/OS-8B dated 28.01.2005.

5. By way of this OA, the applicant seeks pension in the rank of Naib Subedar with effect from 01.01.2006 on the basis of Govt. of India (MoD) letter

No. 1(8)/2008-D(Pen/Policy) dated 12.06.2009.

6. Counsel for the respondents submits that subject to verification, appropriate orders may be passed

7. We find that the grant of pension to pre-2006 retirees is covered squarely by the order dated 08.02.2010 of the AFT (Regional Bench), Chandigarh

in O.A. No. 42 of 2010 titled Virender Singh & Others 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. SubhashChanderSoni had, vide its order dated 20.05.2015, dismissed the

appeal of Union of India against AFT order in O.A. No. 3305 of 2013. Subsequently, Govt. of India (Ministry of Defence) has cleared the grant of

pension in the rank of Nb Sub to personnel who retire 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.

8 Hence, we allow the instant OA. Subject to verification, the respondents shall re-fix the pension of the applicant at the enhanced rate in the rank of

'Naib Subedar with effect from 01.01.2006 on the basis of the 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 of four months from the date of issue of this order shall attract interest @ 8%.

9. No order as to costs.