
(2020) 03 AFT CK 0072

In the Armed Forces Tribunal

Case No : Original Application No. 516 Of 2020, Miscellaneous Application No. 625 Of 2020

Gopi Singh Rajput

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 16-03-2020

Acts Referred:

Citation : (2020) 03 AFT CK 0072

Hon'ble Judges : Rajendra Menon, J; Philip Campose, Member (A)

Bench : Division Bench

Advocate : A.K. Trivedi, S.D. Windlesh

Judgement

M.A No. 625 of 2020:

1. Records reveal that there is a delay of 2353 days in filing the instant O.A. Keeping in view the averments made in the Miscellaneous Application and finding the same to be bona fide, we allow the same and the delay is condoned.

O.A No. 516 of 2020:

2. The applicant seeks for a direction to the respondents to fix his pension in the rank of Subedar in accordance with the Government circular dated

09.02.2001 with effect from the date of his discharge i.e. 01.11.2013 and pay the arrears along with interest @ 18% per annum till payment.

3. The applicant joined the Indian Army (Artillery) on 16.10.1985. He had been promoted to the rank of Subedar on 17.10.2013 and retired in the rank

of Subedar on 31.10.2013 after having served in the said rank for a period of 15 days. However, he was issued PPO showing his rank as Nb Subedar,

due to which he has been receiving pension in the rank of Nb Subedar since the

date of his discharge.

4. Learned counsel for the applicant has brought to our notice the circular dated 09.02.2001, whereby the Ministry of Defence issued a notification

implementing the recommendations of the 5th Central Pay Commission relating to pensionary benefits in respect of commissioned officers and

personnel below officers' rank. It has been clarified in the said notification that all Armed Forces pensioners, irrespective of their date of retirement,

shall not get less than 50% of the minimum revised scale of pay, introduced with effect from 01.01.1996. When it came to the notice that the PCDA,

Allahabad was not extending the said benefit, the Central Government clarified as under:

It is clarified that pension of all pre-96 retiree Armed Forces personnel will be revised on the basis of the rank/group last held by the

individual and the revised pay scale connected thereto, even if the rank/group was held for less than .10 months before retirement. Such

pension will be reduced proportionately if the qualifying service is less than 33 years. Other conditions to earn pension will continue to

apply.

We do not find any justification on the part of the respondents why the pension of the applicant should not be fixed in the rank of Subedar in

accordance with the relevant Government orders, as he had already been promoted to the rank of Subedar before the date of his discharge.

5. Since the case of the applicant is squarely covered by the decisions of the Tribunal in _IWO P. Gopalakrishnan v. Union of India and others (0.A

No. 62 of 2014 dated 13.02.2015 (Chennai Bench)) and Ex Sub Mohar Singh v, Union of India and others (0.A No. 444 of 2015 dated 27,09.2017

(Principal Bench)), we allow the CA, subject to confirmation of details, directing the respondents as under:

(i) Calculate the pension of the applicant based on the rank of Subedar, the last rank held by him before retirement, and in consonance with the

principles of calculation that have been upheld in the case JWO Gopalakrishnan (supra) in this regard;

(ii) Issue fresh PPO for the restructured and revised pension of the applicant in the rank of Subedar with effect from the date of his discharge and pay

the arrears of pension within a period of four months from the date of receipt of

this order.

(iii) In case this order is not implemented within the stipulated time, the respondents shall pay interest @ 8% on the arrears till fully paid.

6. No order as to costs.