

(2019) 12 AFT CK 0016

In the Armed Forces Tribunal

Case No : Original Application No. 2084 Of 2019, Miscellaneous Application No. 2987 Of 2019

Liyakat Ali

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 06-12-2019

Acts Referred:

Citation : (2019) 12 AFT CK 0016

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

Bench : Division Bench

Advocate : Praveen Kumar, Neeraj

Final Decision : Allowed

Judgement

1. Heard. Admit.

Issue Notice on OA as well as MA, which is accepted by Mr. Neeraj, Sr. CGSC on behalf of the respondents.

Learned counsel for the applicant submits that this case is squarely covered by number of judgments. Learned senior counsel for the respondents does

not dispute the same and submits that subject to verification, appropriate orders may be passed.

M.A. No. 2987 of 2019:

Vide this MA, the applicant seeks condonation of delay of 5081 days in filing the present OA. Keeping in view the averments made in the application

and finding the same to be bonafide and in the light of the decision in Union of India and others Vs. Tarsem Singh [2008 (8) SCC 648,] we allow the

instant MA and condone the delay in filing the OA.

M.A. No. 2987 of 2019 stands disposed of accordingly.

O.A. No. 2084 of 2019:

By virtue of this OA, the applicant, who was enrolled in the army on 28.10.1977 and discharged on 31.10.2001 in the rank of Havildar, and was

granted the Honorary rank of Naib Subedar (Hony Nb Sub) on the occasion of Republic Day, 2002, 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 Honble 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 again

AFT order in O.A. No. 3305 of 2013. Subsequently, Govt. of India (MoD) 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.

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 (0, 8% per annum.

4. No order as to costs.