

(2019) 09 AFT CK 0017

In the Armed Forces Tribunal

Case No : Original Application No. 1292 Of 2017

Om Pal Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 13-09-2019

Acts Referred:

Citation : (2019) 09 AFT CK 0017

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

Bench : Division Bench

Advocate : VS Kadian, P Sharma

Final Decision : Allowed

Judgement

1. By way of this OA, the applicant claims revision in pension of the rank of Nb Sub.

Issue Notice to the respondents in OA. Learned counsel for the respondents accepts notice on behalf of the respondents. and seeks time to file counter affidavit.

Learned counsel for the applicant submits that the matter is covered by number of judgments which fact has not been disputed by the learned counsel

for the respondents. However. he seeks time to take instructions.

In view of the documents placed on records, we deem it appropriate to pass an order subject to verification.

OA stands disposed off accordingly

By way of present application, the applicant, who was discharged from service on 31.03.2006 after completion of 24 years and 2 days of pensionable

service and was granted the Hony rank of Nb Sub w e.f. 19.08.2006 on the occasion of Republic Day 2006, seeks a direction to the respondents to

release his service pension with effect from 1st January, 2006. based on the pay scale for the rank of Nb Sub on the basis of policy letter

No.1(8)/2008-D(Pen- Policy) dated 12th June, 2009. issued by Government of India, Ministry of Defence. wherein it is stated that all Hony Nb Sub

are entitled for pay of Nb Sub, irrespective of the date of retirement.

2. In effect the applicant prays for payment of arrears of pension by fixing his pension with effect from 1st January, 2006, with enhancements, as

applicable from time to time in the scale of Nb Sub. in view of the above policy and also the decision in OA No.42 of 2010 decided on February, 2010.

which was confirmed by the Honâ€¢ble Supreme Court in SLP (C) NO,18582 of 2010 titled Union of India and Ors. Vs. Virender Singh and Ors.

decided on 13th December, 2010,

3. VVe have heard the counsel on both sides

4. By Government of India, Ministry of Defence, Letter dated 12 1 June, 2009, referred to above. Havildars who were conferred honorary rank of

Naib Subedar had been granted regular pension with effect from 1st January, 2006, giving them notional promotion on the higher grade of Naib

Subedar. The relevant portion of the said order reads as follows:

..... that Honorary rank of Naib Subedar granted to Havildars will be notionally considered as promotion to the higher grade of Naib

Subedar and benefit of fitment in the pay band and the higher grade pay will be allowed notionally for the purpose of fixation of pension

only. Accordingly, additional element of pension of Rs. 100/-p.m. payable to Havildars granted Hony rank of Naib Subedar as per

Regulation 137 of Pension Regulations for the Army Part-I (1961), amended vide this Ministry's letter No. 1(1)/88/D (Pen/Sers) dated

6.11.1991 will cease to be payable. The notional fixation of pay in the rank of Naib Subedar will not be taken into account for payment of

retirement gratuity, encashment of leave, composite transfer grant etc.

5. We, therefore, direct the respondents to revise the service pension of the applicant in the rank of Hony Nb Sub with effect from 1"" January, 2006

on the basis of Government of India letter dated 12" June, 2009, with all consequent revisions applicable to all Hony Nb Sub retired prior to 1"" January,

2006, after adjusting Rs 100/- per month, already been paid to the applicant in terms of letter dated 6 1h November, 1991, after 1 January, 2006â€¢?

within a period of three months from the date a copy of this order is received, failing which the applicant shall be entitled to interest at the rate of eight

per cent per annum on the difference of service pension that he is getting presently and he is held to be entitled to in view of this order.

6. OA is accordingly allowed with no order as to costs.