

(2019) 10 AFT CK 0063

In the Armed Forces Tribunal

Case No : Original Application No. 285 Of 2019, Miscellaneous Application No. 752 Of 2019

Vinod Kumar Sharma

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 16-10-2019

Acts Referred:

Citation : (2019) 10 AFT CK 0063

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

Bench : Division Bench

Advocate : Ved Prakash, V.S.Tomar

Final Decision : Allowed

Judgement

1. Counter affidavit has already been filed. Applicant does not want to file rejoinder.

Arguments heard.

Vide separate order. OA stands disposed off

MA 752/2019

Vide this application, applicant seeks condonation of delay of 6642 days in filing the OA.

In view of the averments made in the application delay of 6642 days in filing the OA is condoned. Same is taken on the record. MA stands disposed

off.

OA285/2019

Heard learned counsel for both the parties.

2. The applicant was enrolled in the Indian Army in EME on 08.11.1975 and was

discharged from service on 30.11.2001, after rendering 26 years and 23 days of meritorious service. He was granted the Honorary rank of 'Naib Subedar' (Hony Nb Sub) vide EME Records, Secunderabad letter No. 1743/RD-02/CA-4 dated 20.02.2002.

3. 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.

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

5. 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 Hon'ble 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 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.

6. 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%.

7. No order as to costs.