

SEE RULE 102 (1)ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATAAPPLICATION : O.A. : 95/2018DATED : THE ~~FOURTEENTH~~ DAY OF SEPTEMBER, 2018CORAMHON'BLE DR. (MRS.) JUSTICE INDIRA SHAH, MEMBER (JUDICIAL)HON'BLE LT GEN GAUTAM MOORTHY, PVSM, AVSM, VSM, ADC,
HON'BLE MEMBER (ADMINISTRATIVE)

APPLICANT (S) : No. 14231105L Ex Hav (Hony Nb Sub)
RAJENDRA PRASAD SINGH
S/O SHRI DEVNANDAN SINGH
Village & PO – Rajapur
Dist – Bhojpur (BIHAR) – 802 163

Versus

RESPONDENT (S) : (1) The Union of India, service through
The Defence Secretary
Ministry of Defence
South Block, DHQ, PO,
New Delhi – 110 011

(2) The Secretary
Deptt. of Ex-Servicemen
Welfare & Pension
Ministry of Defence
South Block, New Delhi - 110011

(3) The Officer-in-Charge
Signals Records
PIN – 908 770
C/O 56 APO

(4) The Principal Controller of Defence
Accounts (Pensions)
Draupadi Ghat
ALLAHABAD (UP) – 211 001

(5) The Branch Manager
Punjab National Bank,
Arrah Chowk Branch
Arrah, Dist- Bhojpur (BIHAR) – 802 301

Counsel for the applicant (s) : Mr. Aniruddha Datta, Ld. Advocate

Counsel for the Respondent (s) : Mr. Ajay Chaubey, Ld. Advocate

ORDER**PER LT GEN GAUTAM MOORTHY, PVSM, AVSM, VSM, ADC,
MEMBER (ADMINISTRATIVE)**

1. This case (O.A. No. – 95/2018) has been filed by the applicant under Section 14 of The Armed Forces Tribunal Act, 2007 (The Act) for non grant of pension of the rank of Honorary Naib Subedar w.e.f. 26 January, 2004 (The date the Hony Rank awarded to the applicant, i.e., on the eve of Republic Day 2004) by the Govt. of India in recognition of his hard work, devotion to duty a meritorious service. The same has been duly conveyed to the applicant vide OIC Records, Signals Records D.O. letter No. 3454/CA-4/11/DO/RD-2004 dated 30 January, 2004 (Annexure : A-6 of the O.A.).

Facts of the Case

2. The facts of the case are that the applicant was enrolled in the Indian Army in the Corps of Signals on 24 October, 1979 as a Signaller and he was subsequently attested on 02 Feb 1981. During the course of his service, he was promoted to the rank of Havildar. On completion of 23 years and 353 days of qualifying service, the applicant retired on completion of his terms of engagement on 01 November, 2003. He was duly issued with his PPO and discharge book on retirement.

At a later date in keeping with the policy in vogue a Corrigendum was issued (PPO No. S/CORR/024258/2004 (ARMY), wherein the rank of the applicant had been shown as HON-NB-SUB. As per his submission, his pension has not been revised to Honorary Naib Subedar w.e.f the date of grant of the rank i.e., 26 January, 2004 but it continued to be that corresponding to the rank of Havildar. The only change was that the service element of his pension was increased by Rs. 100.00 per month.

3. The applicant vide his application No. 14231105L/Pers/01 dated 13 September, 2017, approached the OIC Records, Record Office, Signals Records for grant of pension corresponding to his present rank i.e., Naib Subedar (Refer to Annexure : A-3 of the O.A.). The Records Signals vide letter No 5104/SP/NER/T-1 (N) dated 23 Sep, 2017 (Annexure : A-6 of the Supplementary Affidavit) had asked the applicant to liaise with the Pension Disbursing Authority alongwith his PPO, discharge book vide PCDA (P) Circular No. 568 dated 13 October, 2016 to get his pension revised / arrears as no corrigendum PPO is required to be issued from Pension Sanctioning Authority. The above letter is reproduced below :-

"Tele No. : 0761-2606915

The Records Signals
PIN – 908 770
c/o 56 APO
23 Sep 2017

5104/SP/NER/T-1 (N)

Ex Hav Rajendra Prasad Singh
1902 "B" DSC PI
Att to HQ J & B Sub Area
PIN : 908 766
c/o 56 APO

**REVISION OF SERVICE PENSION / ARREARS OF JCO/OR AS PER DE-LINKING OF
QUALIFYING SERVICE OF 33 YEARS IN RESPECT OF NO. 14231105 EX HONY NB SUB
RAJENDRA PRASAD SINGH**

1. Refer to your petition dated 13 Sep 2017.
2. You are advised to liaise with PDA alongwith copy of PPO and discharge book as per PCDA (P), Allahabad Circular No. 568 dated 13 Oct 2016 to get your revised pension / arrears. PCDA (P), Allahabad had instructed all the pension disbursing authorities to revise serving pension / arrears and no corrigendum PPO is required to be issued from Pension Sanctioning Authority.

Sd/- x x x x x x x x Lt Col
Major
Senior Record Officer
for OIC Records"

4. On receipt of the above letter, the applicant approached the Branch Manager, Punjab National Bank, Arrah Chowk Branch, Arrah, Dist – Bhojpur (Bihar) - 802 301 through his application dated 30 November, 2017 (Annexure : A-5 of the O.A.).

5. The Pension Disbursing Authority i.e., the PNB (address as at Para 4 above) did not accept the application of the applicant and verbally asked the applicant to approach Signals Records for issuance of fresh Corrigendum PPO according to his present rank i.e., Honorary Naib Subedar.

Analysis and Order

6. The issue of grant of pension in the rank of Hony Naib Subedar to the personnel who were discharged as Havildar is no longer res-integra. In view of the catena of judgments, Govt. of India, Ministry of Defence, Department of Ex-servicemen Welfare, D (Pension/Legal) dated 30th October, 2017 also extended this benefit with regard to the pension of Hony Nb Sub to those Havildars who were discharged pre-2006, from 01.01.2006 onwards.

7. Hence, there is no requirement of calling for the Respondents to file any Affidavit-in-Opposition.

8. The applicant is entitled to the revised pension w.e.f. 01.01.2006. Therefore, his pension is to be revised by the Respondents within a period of 3 months from the date of receipt of this order, and be paid along with arrears failing which a simple interest @ 8% per annum to be paid to the applicant till the date of realization.

9. It is also made clear that an amount of Rs. 100/- per month which was already paid to the applicant in terms of Govt. of India, Ministry of Defence letter dt. 06.11.1991 shall be adjusted against the amount due to the applicant as per

this order and the said amount of Rs. 100/- per month as paid shall be discontinued.

10. Accordingly , this Original Application (O.A. No. – 95/2018) is allowed the directions as above.

11. No order as to costs.

12. A plain copy of this order, duly countersigned by the Tribunal Officer, to be furnished to both the sides after observance of all usual formalities.

(LT GEN GAUTAM MOORTHY)
MEMBER (ADMINISTRATIVE)

(JUSTICE INDIRA SHAH)
MEMBER (JUDICIAL)