

SEE RULE 102 (1)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

APPLICATION : O.A. : 162/2018

DATED : THE SECOND DAY OF MAY, 2019

CORAM

HON'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. 4261682P HONY NB SUB
BINDESHWARI MONDAL
S/O Shri Parma Singh
R/O – Village – Kansopur
Post – Baidrabad
Dist – Arwal (BIHAR) – PIN – 804 402

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 Chief of the Army Staff
Sena Bhawan,
Integrated HQ of MoD (Army)
DHQ PO New Delhi – 110 011
- (3) The Officer-in-Charge
Records The Bihar Regiment
PIN – 908 765
c/o 56 APO
- (4) The Principal Controller of Defence Accounts
(Pensions), Sadar Bazar
Draupadi Ghat
ALLAHABAD (UP) – 211 014
- (5) The Chief Manager
Bank of India, CPPC, 87-A, 1st Floor
Bank of India Building
Station Road, Nagpur
Dist – Nagpur (Maharashtra), PIN – 440 001

Counsel for the applicant (s) : Ms. Manika Roy, Ld. Advocate

Counsel for the Respondent (s) : Mr. Tapas Kumar Chatterjee, Ld. Advocate

ORDER

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

1. This case (O.A. No. – 162/2018) 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. 01 April, 2006, as published vide Records the Bihar Regiment DO Pt II Order No. 01/047/011/2006. (i.e., the date the Hony Rank of Naib Subedar was awarded to the applicant).

Facts of the Case

2. The facts of the case are that the applicant was enrolled in the Indian Army in the Bihar Regiment on 22 March, 1982 and was discharged in the rank of Havildar (GD) on 01 April 2006 on completion of 24 years and 22 days of colour service. He was duly issued with his P.P.O. and discharge book on retirement. At the time of his discharge on 01 April 2006, he held the rank of Havildar (Honorary Naib Subedar). As per his submission, his pension has not been revised to Honorary Naib Subedar w.e.f. 01 April 2006 despite publication of the rank vide Records DO Pt II No. 01/047/011/2006 (Page 26 of O.A.).

3. The applicant approached the Records the Bihar Regiment several times vide his applications dated 06 August, 2018 (Annexure : A/4 of the OA), 29 January, 2018 (Page 42 of the OA), 16 November, 2017 (Page 44 of the OA), 25 September, 2017 (Page 45 of the OA), 20 July, 2017 (Page 46 of the OA), 02 June, 2017 (Page 47 of the OA), 15 March, 2017 (Page 48 of the OA), 03 February, 2017 (Page 50 of the OA), 09 January, 2017 (Page 51 of the OA), 20 October, 2016 (Page 52 of the OA), 02 June, 2017 (Page 54 of the OA), yet they yielded no fruitful results.

4. There being no fruitful results, the applicant had to approach this Tribunal for grant of pension in the rank of Honorary Naib Subedar as entitled through this Original Application being No. 162 of 2018.

Analysis and Order

5. 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) letter No. 1(8)2008-D (Pen/Policy) dated 12th June, 2009.

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

7. The applicant is entitled to the revised pension w.e.f. 01.04.2006. 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.

8. 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.

9. Accordingly, this Original Application (O.A. No. – 162/2018) is allowed the directions as above.

10. The O I/C Legal Cell has made an oral prayer for appeal to the Hon'ble Supreme Court under Sec 31 of the AFT Act. As there is no point of law of general public importance, the appeal is denied.

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)