

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI

M.A.Nos. 555 & 556 of 2019 & O.A. NO. 408 of 2019

WEDNESDAY, THE 22ND DAY OF JANUARY 2020

CORAM:

HON'BLE MR. JUSTICE MOHAMMAD TAHIR, MEMBER (J)

HON'BLE VICE ADMIRAL P. MURUGESAN, MEMBER (A)

1. Premarajan Edavanna,
2. Gangadharan Kambrath veettil.
3. Vasudevan T.M.
4. Ravindran T.A.
5. Unnikrishnan K.

. APPLICANTS

By Adv.M/s.M.P.Ashok Kumar, P.C.Gopinath,
Bindu Sreedhar & Asif N.

versus

Union of India & Others

.

RESPONDENTS

By Adv. Sri. S.Prasanth, Central Government Counsel.

ORDER

Admit.

2. Sri.S.Prasanth, Central Government Counsel, accepts notice on behalf of the respondents. Thus, the service of notice on the respondents is complete.

3. With the consent of the parties the matter is taken on board for final disposal.

4. We have heard both the sides and have perused the relevant record.

5. The first applicant, Premarajan Edavanna, was enrolled in the Indian Army as Havildar on 01.07.1980. He was conferred with the rank of Honorary Naib Subedar. The second applicant, Gangadharan Kambrath veettil was enrolled in the Indian Army as Havildar on 25.08.1976, the third applicant, Vasudevan T.M. was enrolled in the Indian Army on 24.09.1982. The fourth applicant, Ravindran T.A was enrolled in the Indian Army as Havildar on 05.03.1978 and the fifth applicant, Unnikrishnan K., was enrolled in the Indian Army as Havildar on 20.09.1980. They filed copies of P.P.O showing their rank as Honorary Naib Subedar.

6. It is stated by the learned counsel for the applicant that this matter is covered by the judgment of the Hon'ble Apex Court rendered in **Union of India and others vs. Virender Singh and others**, decided on **13.12.2010**, **Special Leave to Appeal (Civil) C.C No. 18582 of 2010** and is consistently being followed in similar cases. Subsequently, the Armed Forces Tribunal, Regional Bench, Chandigarh in another case, **O.A No. 3146 of 2013**,

'Baldev Singh vs. Union of India & others', decided the case (along with 33 connected OAs) on the basis of the judgment rendered in **Virender Singh's case (supra)**, as upheld by the Hon'ble Supreme Court. In this case, the respondents filed an appeal only in one case, as **Civil Appeal No. 4677 of 2014, 'Union of India and others Vs. Subbash Chander Soni'**, which was dismissed by the Hon'ble Supreme Court on **20.05.2015** and, thus, the view taken by this Tribunal attained finality. This OA can, therefore, be disposed of in the same/similar terms.

7. Since the point in issue is no longer **res integra**, therefore, we do not insist upon the respondents for formal reply, as it will not improve their case and it shall be a sheer wastage of public money and time.

8. At this stage, the learned counsel for the respondents ventilated to restrict the arrears to six months. We find that a similar plea was taken before the Armed Forces Tribunal, Regional Bench, Chandigarh by the counsel for the Union of India in the case of **Baldev Singh vs. Union of India & others (supra)**, wherein Leave to Appeal was granted to the respondents. The SLP filed as **Civil Appeal No.4677 of**

2014, 'Union of India and others vs. Subbash Chander Soni' was dismissed by the Hon'ble Supreme Court on **20.05.2015** and the petitioner held entitled to the benefit from 01.01.2006, however, clarifying that no interest shall be payable in such cases. The entire order is reproduced below:-

"ORDER

*From the reading of the impugned judgment of the Armed Forces Tribunal, it gets revealed that the Tribunal has relied upon its earlier judgment dated 8.2.2010 rendered in OA No. 42 of 2010 titled as 'Virender Singh & Ors. v. UOI' where identical relief was granted to the petitioners therein who were similarly situated. Further, we note that against the said judgment of the Tribunal, SLP(c) CC no.18582 of 2010 was preferred which was dismissed by this Court on 13.12.2010. We further find that by the impugned judgment, the Tribunal had decided 35 OAs and the Union of India has preferred the instant appeal only in one of those 35 cases. For all these reasons, we are not inclined to entertain this appeal, which is dismissed accordingly. **We, however, clarify that no interest shall be payable. Two months' time is granted to the appellants to comply with the impugned judgment passed by the High Court."***

9. Based on the judgments of the Apex Court mentioned here-in-above, we dispose of the present O.A. with the

directions to the respondents to release the service pension to the applicants in the rank of Naib Subedar w.e.f. 01.01.2006 within a period of four months from the date of receipt of a certified copy of this order by the representative of the respondents. It is however made clear that no interest on the arrears shall be admissible as already settled by the Honourable Supreme Court. However, in case compliance is not made by the respondents within the stipulated time as stated here-in-above, interest @ 8% shall accrue to the petitioner from the date of this order.

10. The OA is allowed and disposed of in terms of the observations and directions given here-in-above, subject to verification of the factual matrix by the respondents.

11. M.A.No. 555 of 2019, joining together is allowed and M.A.No.556 of 2019 is accordingly disposed of.

12. No order as to costs.

Sd/-
(P.MURUGESAN),
MEMBER(A)
pb

Sd/-
(MOHAMMAD TAHIR)
MEMBER (J)

(true copy)