

F. No. 3(8)/2013/D(Pension/Legal)
Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare
D (Pension/Legal)

Sena Bhawan, New Delhi
Dated 30th, October, 2017

To

The Chief of the Army Staff

Subject: - Implementation of orders of Hon'ble Courts/AFTs in pre-2006 retiree Havildars granted Hony Rank of Nb Sub cases.

The Hon'ble Supreme Court in the following cases has decided:-

- (a) Ex Hav (Hony Nb Sub)Virender Singh & 4 Ors. who retired prior to 01.01.2006, filed OA No. 42/2010 before Hon'ble AFT (RB) Chandigarh seeking the benefits of fitment in the pay grade of Nb Sub in accordance with Government of India, Ministry of Defence letter No 1(8)/2008-D(Pen/Policy) dated 12 June 2009. The Hon'ble AFT, vide its order dated 08 February, 2010 ordered to grant the benefit to the petitioners with instructions to release the entitlement of pension and arrears w.e.f. 01.01.2006. Civil Appeal filed by the UOI to assail AFT order dated 08 February, 2010 was dismissed by the Hon'ble Supreme Court vide order dated 13 December, 2010.
- (b) In a similar case, Civil Appeal No 4677/2014 was filed by the UOI in the Hon'ble Supreme Court in Ex Hav (Hony Nb Sub) Subhash Chander Soni's (OA 3305/2013) case. Hon'ble Supreme Court vide its order dated 20 May 2015 has dismissed the appeal and held that "we are not inclined to entertain this appeal, which is dismissed accordingly."

2. In view of the above judgment of Hon'ble Supreme Court, matter for implementation of orders of Hon'ble Courts/AFTs in respect of Armed Forces Personnel in Hony Nb Sub cases was taken up with Department of Expenditure, Ministry of Finance for consideration. Deptt. of Expenditure has agreed to implement those orders of Hon'ble Courts/AFTs.

3. Accordingly, I am directed to convey the approval of Competent Authority in Ministry of Defence for implementation of orders of Hon'ble Courts/AFTs in pre-2006 retiree Havildars granted Hony rank of Nb Sub cases, by Service Hqrs. as under :-

- a) Service Hqrs may implement the orders of Hon'ble Courts/AFTs in Hony Nb Sub cases by issuing absolute sanction keeping in view of the orders of Hon'ble Apex Court, quoted at Para 1 above.
- b) In those Hony Nb Sub cases in which conditional sanctions have been issued by the Service Hqrs. with the approval of competent authority in MoD, Service Hqrs. may convert conditional sanction into absolute sanction at their level with the approval of competent authority at Service HQ. No interest shall be payable as per Hon'ble Supreme Court order dated 20.05.2015 in the case of UOI Vs Subhash Chander Soni.

Continue..

CAJ
30.10.17

4. The benefit regarding grant of pension of Naib Subedar to pre-2006 retired Havildars who were granted Honorary rank of Naib Subedar after their retirement, as ordered by the Courts/AFTs, would be applicable only in case of revision of pension as indicated in MoD order No 1(8)/2008-D(Pen/Policy) dated 12.06.2009 and not for retirement gratuity, encashment of leave, composite transfer grant etc.

5. The amount involved on account of implementation of Court/AFT orders will be booked under charged expenditure.

6. This issues with concurrence of Department of Expenditure, Ministry of Finance vide I.D. Note No. 140/E-V/2017 dated 05.09.2017 and MoD (Fin/Pen) U.O. No. 10(6)/2012/Fin/Pen/2012 dated 08.09.2017.


(Ajay Kumar Agrawal)

Under Secretary to the Govt. of India
Tele: 23015650

Copy to:-

1. FA (DS)
2. Deptt of Expenditure (EV) - w.r.t. their ID No 140/E-V/2017 dated 05.09.2017
3. AFA (Pension), MoD (Fin/Pen)
4. CGDA, Ulan Batar Road, Delhi Cantt., New Delhi
5. PCDA (P), Draupadi Ghat, Allahabad
6. Director, AG/PS-4(L)
7. US (Pen/Policy), MoD, Sena Bhawan