



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: January 29, 2024

+ W.P.(C) 5264/2019

(9) SUB MAJ (HONY LT) RAM SINGH AND ORS. Petitioners

Through: Mr. Ankur Chibber and Mr.
Anshuman Mehrotra, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Jitesh Vikram Srivastava, SPC
with Mr. Prajresh Vikram Srivastava,
Advocate.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioners with the following prayers:

"It is therefore most respectfully prayed that this Hon'ble Court may be graciously pleased to

(a) issue a writ of certiorari/ mandamus or any other writ, order or direction to quash and set aside the impugned letter No 2076/D(Pen/Pol)/2017 dated 27.08.2018 and the policy which debar grant of pensionary/financial benefits to the JCOs awarded Honorary Commissioned Lieutenant and Captain after retirement at par with those granted Honorary Commission Lieutenant and Captain during active service and/or to extend such pensionary/financial benefits to the



petitioners from the date of award of Honorary Commission.

(b) pass any such order as this Hon'ble court may deem proper in the facts and circumstances of the case to meet the ends of justice."

2. When the petition was listed before the court on December 08, 2023, this Court had passed the following order:

"1. Learned counsel for respondents submits that recently the Supreme Court in Writ Petition (Civil) 1234/2021, titled Retired Honorary Commissioned Officers Welfare Association (Regd.) Vs. Union of India & Anr. vide order dated 03.11.2023 has rejected a petition filed by the Association seeking identical relief. He submits that copy of the petition, counter affidavit, rejoinder as well as the order passed by the Supreme Court has been sent on the e-mail of the Court Master. Let the said e-mail be forwarded to the learned counsel for the petitioner.

2. Learned counsel for petitioner prays for some time to take instructions.

3. List on 11.01.2024."

3. Mr. Chhibber has placed before us the copy of the writ petition being W.P.(C) 1234/2021 filed before the Hon'ble Supreme Court, wherein the prayers made in the petition are the following:

"It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

- A. Issue a writ/Order/Direction in the nature of mandamus directing Govt. of India/Respondents to regularize in granting of honorary rank holders who were given honorary awards after retirement the pensionary benefits with retrospective effect from 01.01.2006 the date of*



- implementation of 6th Central Pay Commission with interest.
- B. Declare the regulation 179(b) of DSR as anti-constitutional without pensionary benefit,**
- C. To grant the above benefits to Subedar Majors including Risaldar Major granted the rank of honorary lieutenants after retirement.**
- D. To grant the above benefits to Subedar & Subedar Major including Risaldar & Riosaldar Major granted the honorary commission in the rank of honorary Lieutenants and in the rank of honorary Captains after retirement.**
- E. Pass any other order(s) as this Hon'ble Courts deems fit in the facts and circumstances of the present case."**

4. Though Mr. Chhibber and Mr. Ram Singh (petitioner no.1), do state the claim of the petitioners in this petition and the prayers made in the petition before the Hon'ble Supreme Court are same, but the petition before the Hon'ble Supreme Court did not include the plea that a Subedar Major given the Honorary rank of Lieutenant after retirement, should be entitled to similar benefits as have been granted to a Hawaldar who has been given Honorary rank of Naib Subedar, as per circular dated June 12, 2009 which reads as under :

"To

The Chief of the Army Staff

Subject : Notional Pay fixation of Honorary Ranks for the purpose of pension Recommendations of the Sixth Central Pay Commission contained in Para 5.1.62.

Sir,

I am directed to say that in pursuance of Governments decision on the recommendations of the Sixth



Central Pay Commission contained in Para 5.1.62 of Chapter V of the Report, the President is pleased to decide that Honorary rank of Naib Subedar granted to Havildars will be notionally considered as a promotion to the higher grade of Naib Subedar and benefit of fitment in the pay band and the higher grade pay will be allowed notionally for the purpose of fixation of pension only. Accordingly, additional element of pension of Rs. 100/- pm payable to Havildars granted Honorary rank of Naib Subedar as per Regn. 137 of Pension Regulations for the Army Part-I (1961), amended vide this Ministry's letter No. 1(1)/88/D(Pens/Sers) dated 6.11.1991 will cease to be payable. The notional fixation of pay in the rank of Naib Subedar will not be taken into account for payment of retirement gratuity, encashment of leave, composite transfer grant etc.

2. This letter takes effect from 1st January, 2006.

3. This issues with the concurrence of Finance Division of this Ministry vide their UO No. 2351/Finance/Pension dated 3.6.2009.

(Harbans Singh)
Director(Pension Policy)

Copy to:

1. President's Secretariat"

5. Their submission is also by relying upon Annexure P-2 at page 44, more specifically Clause 11 (a) wherein it is stated that the officers retired on or after January 01, 1996 in the rank of Major and who have completed 21 years of service shall be allowed the pay of Lieutenant Colonel and pension of the said officers shall be accordingly revised without actual promotion.

6. Their submission is that similar benefits have been denied to the petitioners herein though they have been given the Honorary rank of Lieutenant.



7. We are afraid the above pleas cannot not be accepted in view of the dismissal of the writ petition by the Hon'ble Supreme Court vide order dated November 03, 2022, which reads as under, which petition incorporates similar prayers as sought by the petitioners in this petition.

“In view of the explanation given in the counter-affidavit, we do not think the relief prayed for by the petitioner should be granted and allowed.

In view of the aforesaid, the writ petition is dismissed.

Pending application(s), if any, shall stand disposed of.”

8. The petition is accordingly dismissed.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

JANUARY 29, 2024/So..