

  
**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

O.A. NO.113 of 2004

New Delhi, this the 19<sup>th</sup> day of January, 2006

**HON'BLE SHRI SHANKER RAJU, MEBER (J)**

R.P. Sarkar  
R/o B-75, Pandav Nagar,  
Meerut, U.P. ....Applicant.

(By Advocate : Shri Yatendra Sharma)

**VERSUS**

1. Union of India  
Through the Secretary,  
Ministry of Defence,  
North Block,  
New Delhi-110001.
2. Shri Sunil Mathur,  
CDA (Pension), Dropdi Ghat,  
Allahabad (U.P.).
3. Shri K.G. Gupta  
DPDO, Ayudh Path,  
Meerut, U.P. ....Respondents.

(By Advocate : Ms R.O. Bhutia)

**ORDER (ORAL)**

Learned counsel heard.

2. Admittedly, the applicant, who was retired from service on 9.2.1969 while holding honorary rank of Nb/Subedar, although holding the substantive rank of Havaldar was accorded the honorary rank of Nb/Subedar. In this view of the matter, learned counsel of applicant by resorting the provisions of Pension Regulation 1961 for Army contended that as per the provisions of this Regulation, 26 years of maximum service is to be reckoned for computing the retiral benefits. Admittedly, pension has been computed on the basis of 21 years of service although, according to the applicant, computation of his pension should have been done by

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taking into account 24 years and 10 months of his service in the grade of Havaldar. It is further stated by the learned counsel of applicant that it is a well settled law that grant of pension is a recurring cause of action, as such the present case is within limitation.

3. On the other hand, learned counsel of respondents stated that earlier when the applicant superannuated in 1969, the instructions issued vide order SI/25/S/68 envisaged. According to these instructions, computation of pension of Havaldar on the basis of maximum service is 21 years and subsequent amendment would not operate in fixation of pension of the applicant, as such OA is liable to be dismissed.

4. Apart from merit, learned counsel has also raised objection of limitation by contending that cause of action had arisen in 1969 and the present OA was filed in 2004, as such it is liable to be dismissed as barred by limitation.

5. I have carefully considered the rival contentions of the parties and perused the material available on record.

6. As far as the preliminary objection of limitation is concerned, objection of limitation is overruled, as pensionary benefits are recurring cause of action.

7. Whatever has been contended by the learned counsel of the applicant which indicates that 24 years and 10 months of service as Havaldar be treated as qualifying service towards computation of pension as per the provisions of the Pension Regulations of Army ibid, this Pension Regulations have been modified in 1987 without any specification as to whether it has a retrospective effect or not, the same would be operative prospectively. As such the respondents have rightly computed the pension of the applicant on the basis of reckoning the applicant's 21 years of

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services as Havaldar as qualifying services towards computation of pension. As such it is in accordance with the instructions in vogue ibid.

8. However, another relief claimed by the applicant in this OA is for computation of pension as per admissible value on pension for holding the honorary rank of Nb/Subedar in Group 'B'. As per the instructions in Pension Regulations for Army, 1961, Havaldar, who have been accorded the honorary rank of Nb/Subedar, shall be given an additional pension equal to 20% of the basic pension earned by him as Havaldar and it is contended that it shall be taken into account for the purpose of computation of pension as well as for grant of dearness allowance.

9. On the other hand, learned counsel for respondents has disputed this fact, but failed to produce any instructions to the contrary.

10. As these instructions were in vogue when the applicant had, admittedly, been accorded the honorary rank of Nb/Subedar, the case of the applicant requires reconsideration by the respondents with regard to grant of additional pension equal to 20% of the basic pension earned by the applicant as Havaldar as well as dearness allowance thereon.

11. In the result, for the forgoing reasons, OA stands partly allowed. Respondents are directed to consider the case of the applicant for grant of additional pension equal to 20% of the basic pension earned by the applicant as Havaldar and reckon the same for computation of pension as well as dearness allowance thereon with all consequential benefits in accordance with law within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju  
(SHANKER RAJU)  
MEMBER (J)

/ravi/