

COURT NO. 1, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

6.

OA 2889/2023

Col Bawa Pradeep Singh Thakur

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Ms. Shreya Gulati, Advocate for  
Mr. S S Pandey, Advocate  
For Respondents : Mr. Sarvan Kumar, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER  
25.09.2023

Present OA has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant being aggrieved by the incorrect pay-fixation of his pay in the 6<sup>th</sup> Central Pay Commission (CPC) resulting in continuous financial loss and disadvantage.

2. The applicant in this OA was commissioned in the Indian Army on 07.06.1997 and promoted to the rank of Lt Col on 07.06.2010. The implementation instructions for 6<sup>th</sup> CPC were issued vide SAI 02/S/2008 dated 11.10.2008. However, because of the wrong fixation of pay, his pay was fixed much lower than his juniors on account of the fact that the applicant

had not exercised the option of how his pay was to be fixed on promotion during the transition period of 01.01.2006 to 11.10.2008 within the stipulated time.

3. We have examined numerous cases pertaining to the incorrect pay fixation in 6<sup>th</sup> CPC in respect of Officers/JCOs/ORs merely on the grounds of option not being exercised in the stipulated time or applicants not exercising the option at all, and have issued orders that in all these cases the petitioners' pay is to be re-fixed with the most beneficial option as stipulated in Para 14 of the SAI 02/S/2008 dated 11.10.2008. The matter of incorrect pay-fixation and providing the most beneficial option in the case of JCOs/ORs has been exhaustively examined in the case of **Sub M.L. Shrivastava and Ors Vs. Union of India [O.A No. 1182 of 2018] decided on 03.09.2021.**

4. Similarly, in the matter of incorrect pay fixation in the 7<sup>th</sup> CPC, the issue has been exhaustively examined in **Sub Ramjeevan Kumar Singh Vs. Union of India [O.A. No.**

**2000/2021] decided on 27.09.2021.** Relevant portions are extracted below :

*"12. Notwithstanding the absence of the option clause in 7<sup>th</sup> CPC, this Bench has repeatedly held that a soldier cannot be drawing less pay than his junior, or be placed in a pay scale/band which does not offer the most beneficial pay scale, for the only reason that the soldier did not exercise the required option for pay fixation, or exercised it late. We have no hesitation in concluding that even under the 7<sup>th</sup> CPC, it remains the responsibility of the Respondents; in particular the PAO (OR), to ensure that a soldier's pay is fixed in the most beneficial manner.*

*13. In view of the foregoing, we allow the OA and direct the Respondents to:-*

- (a) Take necessary action to amend the Extraordinary Gazette Notification NO SRO 9E dated 03.05.2017 and include a suitable 'most beneficial' option clause, similar to the 6<sup>th</sup> CPC. A Report to be submitted within three months of this order.*
- (b) Review the pay fixed of the applicant on his promotion to Naib Subedar in the 7<sup>th</sup> CPC, and after due verification refix his pay in a manner that is most beneficial to the applicant, while ensuring that he does not draw less pay than his juniors.*
- (c) Issue all arrears within three months of this order and submit a compliance report.*
- (d) Issue all arrears within three months of this order and submit a compliance report."*

5. In respect of officers, the cases pertaining to pay-anomaly have also been examined in detail by the Tribunal in the case of **Lt Col Karan Dusad Vs. Union of India and others [O.A. No. 868 of 2020 and connected matters] decided on 05.08.2022.** In that case, we have directed CGDA/CDA(O) to issue necessary instructions to review pay- fixation of all officers of all the three Services, whose pay has been fixed on

01.01.2006 in 6<sup>th</sup> CPC and provide them the most beneficial option. Relevant extracts are given below.

*"102 (a) to (j)      xxx*

*(k) The pay fixation of all the officers, of all the three Services (Army, Navy and Air Force), whose pay has been fixed as on 01.01.2006 merely because they did not exercise an option/ exercised it after the stipulated time be reviewed by CGDA/ CDA(O), and the benefit of the most beneficial option be extended to these officers, with all consequential benefits, including to those who have retired. The CGDA to issue necessary instructions for the review and implementation.*

Directions

*103.      xxx*

*104.      We, however, direct the CGDA/CDA(O) to review and verify the pay fixation of all those officers, of all the three Services (Army, Navy and Air Force), whose pay has been fixed as on 01.01.2006, including those who have retired, and re-fix their pay with the most beneficial option, with all consequential benefits, including re-fixing of their pay in the 7<sup>th</sup> CPC and pension wherever applicable. The CGDA to issue necessary instructions for this review and its implementation. Respondents are directed to complete this review and file a detailed compliance report within four months of this order."*

6. In the light of the above considerations, the OA is allowed and direct the respondents to :

- (a) Review the pay fixed of the applicant on his promotion to the rank of Lt Col on 07.06.2010 in the 6<sup>th</sup> CPC, and after due verification re-fix his pay in a manner that is most beneficial to the applicant.

- (b) Thereafter, re-fix the applicant's pay on transition to 7<sup>th</sup> CPC and also subsequent promotion, if any, accordingly.
- (c) Pay the arrears within three months of the receipt of copy of this order.

[RAJENDRA MENON]  
CHAIRPERSON

[C.P. MOHANTY]  
MEMBER (A)

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43.

MA 5042/2023 in OA 2889/2023

Col Bawa Pradeep Singh Thakur	.....	Applicant
Versus		
Union of India & Ors.	.....	Respondents

For Applicant : Mr. SS Pandey, Advocate

For Respondents : Mr. Sarvan Kumar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER  
13.12.2023

MA 5042/2023

By this application filed under Rule 25 of the Armed Forces Tribunal (Procedure) Rules, 2008, the applicant seeks amendment in the order passed by this Tribunal on 25<sup>th</sup> September, 2023.

2. For the averments made in the application which are duly supported by an affidavit, the following amendments in the order dated 25<sup>th</sup> September, 2023 passed in OA 2889/2023 are made:

For	Read as
c) 'Lt Col on 07.06.2010" Para 2 Line 2 and 3	c) "Major on 16.12.2004"
d) Lt Col on 07.06.2010" Para 6 (a) Line 2	d) "Major on 16.12.2004"

3. In view of the above the MA stands disposed of.

4. This order shall be read in conjunction with the order passed on 25<sup>th</sup> September, 2023 in OA 2889/2023.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[LT GEN C.R. MOHANTY]  
MEMBER (A)

/vks/