

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

OA 2292/2021

Col Rajesh Nandal (Retd)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

: Applicant in Person

For Respondents

: Ms. Sheetal Raghuvanshi, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN CP MOHANTY, MEMBER (A)

ORDER

Invoking the jurisdiction of this Tribunal; under Section 14, the applicant has filed this application and the reliefs claimed in para 8 read as under:

- (a) Direct the Respondent to Re-fix the basic pay of the applicant at Rs. 38530/- pm and not as Rs 37400/- pm on promotion to Lt Col and subsequent revision as per the existing entitlement and policy in vogue.
- (b) Direct the respondent to Re-fix the pay of the applicant to rectify the anomaly and calculate arrears accordingly and allow applicant stepping up of pay with effect from the

OA 2292/2021

Col Rajesh Nandal (Retd) Vs UOI & Ors.

date as applicable to him i.e. when the pay of his batch mates was fixed.

(c) Direct the Respondent to release the consequential admissible arrears on account of pay, as per the revised pay and pension with 12% interest.

2. The applicant was commissioned in the Indian Army on 07.03.1987 as a Short Service Officer and promoted to the rank of Lieutenant Colonel on 16.12.2004. The basic pay of the applicant was fixed as Rs 13900/- under 5th CPC in the scale of Rs. 13500-400-17100.

3. Appearing in person the applicant submits that on promotion to the substantive rank of Lieutenant Colonel in December 2004 his basic pay was fixed as Rs 37400/- instead of 38530/- during 5th CPC and later he was promoted to the rank of Colonel (Time Scale) till his superannuation. The applicant further submits that he had exercised his option certificate of pay fixation but the respondents did not consider his case for re-fixation of pay in most beneficial manner as per law laid down by Hon'ble Armed Forces 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. As he was receiving lesser pay than his batch mates he processed his case for re-fixation of pay which was turned down by the respondents and therefore the OA has been filed.

4. Per contra, Ld Counsel for the respondents submit that the applicant's basic pay was fixed as Rs 13,900/- in the scale of Rs 13500-400-17100 in 5th CPC whereas he has erroneously mentioned in the OA that his pay was fixed as Rs 37400/- instead of Rs 38530/- during 5th CPC on promotion in December 2004. Ld Counsel further submits that under the regime of 5th CPC, the pay scale of Lieutenant Colonel was Rs 13500-400-17100 and not Rs 38530/- on promotion to Lieutenant Colonel on 16.12.2004 as canvassed by him. Thus OA is liable to be dismissed.

5. Having heard the applicant and the Ld Counsel for the respondents and perused SAI/2/S/2008 and policy letter on implementation of 6th CPC vide Govt of India (MoD) letter No. 17(4)/2008(2)/D(Pen/Policy) dated 12.11.2008 the provisions of which have been applied wef 01.01.2006 we clearly conclude that the prayer of the applicant are factually incorrect. Since the

applicant was promoted to the rank of Lieutenant Colonel on 16.12.2004, it is obvious that he would have continued to draw the pay scale of 5th CPC till 01.01.2006 at 13500-400-17100 until his transit to 6th CPC.

6. With aforesaid we dismiss the OA being devoid of merit while granting liberty to the applicant to agitate his grievances if any with respect of his pay fixation under 6th CPC.

7. No order as to costs.

8. Pending miscellaneous application, if any, stands disposed of.

Pronounced in the open Court on 18 day of October, 2023.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Akc/