

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

82.

OA 140/2023 WITH MA 212/2023

JWO Harish Chand ..... Applicant  
Versus ..... Respondents  
Union of India & Ors. ....

For Applicant : Mr. Raj Kumar, Advocate  
For Respondents : Mr. V Pattabhi Ram, Advocate

CORAM

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

ORDER  
18.10.2024

MA 212/2023

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648), the delay in filing the OA is condoned.

2. MA stands disposed of.

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3. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and the prayer made in Para 8 reads as under:-

- (a) *Pass an order directing the respondents to step up/re-fix basic payment of the applicant at par with his junior who is getting higher pay than applicant, from the date on which his junior is getting higher pay than the applicant and pay arrears of difference in salary accordingly with 12% annual interest.*

(b) *To pass such further order or orders/ directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.*

4. In response to the notice issued to the respondents, a detailed counter affidavit has been filed. The respondents have outlined how the pay of the applicant and that of his counterparts, namely, JWO Jagdish Prasad and Sgt K Singh was fixed and have indicated the reasons for the disparity in pay fixation among the three employees.

5. Faced with the aforementioned situation, the learned counsel for the applicant has stated that the applicant would be satisfied if his case is reconsidered for pay fixation in accordance with the law laid down 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, even if the applicant did not submit the option, he submits that his case be evaluated for fixing his pay based on the best option available, as outlined in the case of Sub M.L. Shrivastava and Ors. (supra).

6. Upon reviewing the impugned order passed by the respondents, it is noted that in column (e), it indicates that the applicant did not opt for the Date of Next Increment (DNI) effective from 01.07.2018 upon the grant of MACP-III effective from 21.02.2018.

7. In light of these circumstances, and without delving into the disputes surrounding the stepping up of pay and the comparative pay of the applicant with that of JWO Jagdish Prasad and Sgt K Singh, we find it appropriate to dispose of the matter in the following terms:

(a) The applicant is directed to file a copy of this order along with relevant documents. The respondents shall then examine the case of the applicant in light of the law laid down in the case of Sub M.L. Shrivastava and Ors (supra). Should it be determined that the applicant's pay fixation was not carried out based on the best available option due to the lack of an option submitted by him, the respondents are directed to take action to fix the applicant's pay in accordance with the best available option as per the law laid down in the case of Sub M.L. Shrivastava and Ors (supra) within three months.

8. Accordingly, the OA stands disposed of.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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