

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

50.

OA 1724/2023 with MA 2528/2023

Sub Arjun Singh (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Bikrama Sah and
Ms. Mamta Pannikar, Advocate
For Respondents : Mr. Vijendra Singh, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
26.09.2024

MA 2528/2023

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648], the MA is allowed condoning the delay in filing the OA. The MA stands disposed of.

OA 1724/2023

2. Being aggrieved of the order of the respondents by placing him in lower pay band causing financial loss to him, the applicant by invoking the jurisdiction of this Tribunal under Section 14, of

the Armed Forces Tribunal, has filed this application and the reliefs claimed in para 8 read as under:

(a) OA may kindly be allowed by verification of records available with the respondents as the instant case is squarely covered under Hon'ble AFT (PB) New Delhi judgment dated 10.12.2014 in OA No. 113/2014 Sub Chimar Singh is for & Ors and intent dated 03.09.2021 in O4 NNs 1182-2018 Sub M.L. Shrivastava.

(b) Direct the Respondents to fix the pay of the applicant in the 6th CPC in more beneficial option as per para 14(b)xiv) of SAI 1/8/2008 which clearly mandates that PAO (OR) will regulate fixation of pay that will be beneficial (out of the two options mentioned in the scheme) and accordingly re-fix the pay in rank of Naik, Havildar, Naib Subedar and consequently in the rank of Subedar as granted to all other persons whose option was accepted by following the judgment dated 10.12.2014 passed in OA No 113 of 2014 in case titled Chittar Singh & Ors.

(c) Direct the Respondents to pay the arrears to the Applicant of the differences of pay in rank of Naik, Havildar, Naib Subedar and Subedar after adjusting the payments already made by revising the pay and other allowance as per the revised rate including increment/DA etc. earned till date alongwith interest @ 12% from the date it was payable till the date of payment is made.

(d) Direct the Respondents to revise the retiral benefits of the applicant as per revised rate of basic pay and a Corrigendum PPO be notified revising the Pension, Gratuity and Commutation of the applicant and differences be paid to the applicant alongwith interest @ 12% from the date it was payable till the date of payment is made.

(e) Direct the Respondents to pay the differences of leave encashment to the applicant as per revised rate of pay,

(f) Pass any other or such further order or orders as deemed fit to this Hon'ble Tribunal in order to secure the ends of justice in favour of the applicant.

3. However, today when the matter is taken up, learned counsel for the applicant submitted that the applicant would only be pressing to fix the pay of the applicant in 7th CPC in the most beneficial option. It is further submitted by learned counsel that the applicant was discharged from service on 31st October, 2022.

4. A perusal of the pleadings indicates that the benefit of pay fixation in 7th CPC was not granted to the applicant on account of the fact that he did not exercise the option. This issue has already been decided by us in the case of Ramjeevan Kumar Singh Vs.

Union of India and Ors. (OA No.2000/2021) decided on 27.09.2021, relevant portion of which is quoted herein below:

“12. Notwithstanding the absence of the option clause in 7th 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 7th 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.”

5. In the light of the above, we allow this OA and direct the respondents: -

- (a) To re-fix the applicant's pay on transition into 7th CPC as on 01.01.2016 in the most beneficial manner while ensuring that he is not drawing less pay than his juniors.
- (b) To revise the pension of the applicant and issue corrigendum PPO accordingly.
- (c) To pay the arrears within six months of this order.

6. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL/DHIREN VIG]
MEMBER (A)

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