

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

33.

OA 3619/2024

Sgt Naresh Sharma Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Nawneet Krishna Mishra, Advocate
For Respondents : Mr. Rakesh Dhawan, Advocate

CORAM

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

ORDER
17.09.2024

OA 3619/2024

This application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, who is a Sgt in the Indian Air Force and is aggrieved by the incorrect pay fixation under 6th CPC, which resulted in continuous financial loss and disadvantage to him including on transition to 7th CPC in 2016.

2. The respondents have contended that the option form of the 6th CPC was submitted by the applicant was beyond the stipulated time and the same had been rejected. Accordingly, his pay was fixed w.e.f 01.01.2006 and this had been intimated to the applicant.

in financial loss to those who transited to 7th CPC with incorrect fixation of pay in the 6th CPC. The only ground for denial of the most beneficial pay scale to the applicants and many others who are similarly placed is that either the individuals did not exercise an option for pay fixation, or they exercised it late, beyond the perceived stipulated period. In the given circumstances, the respondents themselves should have taken steps to remove this anomaly, and ease out the issue for the serving soldiers, many of whom may not be knowledgeable about the intricacies of these calculations, in the full knowledge that that no one will ever knowingly opt for a less beneficial option. We emphasise the fact that it's the responsibility of the Respondents and the service authority to look after the interests of its own subordinate personnel.

39. *In view of the above, the three OAs under consideration are allowed and we direct the Respondents to:-*

(a) *Review the pay fixed of the applicants and after due verification re-fix their pay under 6th CPC in a manner that is most beneficial to the applicants.*

(b) *Thereafter re-fix their pay in all subsequent ranks and on transition to 7th CPC where applicable, and also ensure that they are not drawing less pay than their juniors.*

(c) *Re-fix all pensionary and post retiral benefits accordingly.*

(d) *Issue all arrears and fresh PPO where applicable, within three months of this order and submit a compliance report.*

40. *In view of the fact that there are a large number of pending cases which are similarly placed and fall into Category A or B, this order will be applicable in rem to all such affected personnel. Respondents are directed to take suo moto action on applications filed by similarly aggrieved personnel and instruct concerned PAO(OR) to verify records and re-fix their pay in 6th CPC accordingly.*

4. *In the light of the above consideration and the fact that the same considerations are applicable for pay fixation of officers (Lt Col Karan Dusad Vs. Union of India and others [O.A. No.868 of 2020 and connected matters] decided on 05.08.2022) and thus also for men of all the three Services, we find that the applicant, prima facie, has a good case and balance of convenience is also in his favour, we therefore, allow this OA.*

5. We are allowing the application being conscious of the fact that the applicant has specifically compared his pay with that of his batchmates/juniors and claims disparity and disparity is only on account of the fact that the batchmates/juniors have given their option for fixation of pay while the applicant either did not give his option or exercised less beneficial option for fixation of pay. Accordingly, respondents are directed to-

- (a) Review the pay fixed of the applicant on promotion to the rank of LAC on 01.10.2006 under the 6th CPC and after due verification re-fix his pay in a manner that is most beneficial to him.
- (b) Thereafter re-fix the applicant's pay on transition into 7th CPC and also subsequent promotion(s) accordingly.
- (c) To pay the arrears within three months of this order.

6. No order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

/Priya/