

COURT NO. 3, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 1056 of 2023 with MA 1056/2025 &
1654/2023

In the matter of :

Ex Sep Tilak Raj

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. S.M. Dalal, Advocate

For Respondents : Mr. V.S. Mahndiyan, Advocate

CORAM :

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)

HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R

MA 1654/2023

MA 1654/2023 is filed on behalf of the applicant seeking condonation of 2555 days delay in filing the present OA for reasons mentioned therein. In the interest of justice, in view of the judgments of the Hon'ble Supreme Court in the matter of ***UoI & Ors Vs Tarsem Singh*** (2008) 8 SCC 648 and in ***Ex Sep Chain Singh Thr LR. Dhaneshwari Devi Vs Union of India & Ors*** in Civil Appeal No. 022965/2017 arising out of Civil Appeal Diary

No. 30073/2017 and the reasons mentioned, the MA 1654/2023 is allowed and the delay of 2555 days in filing the OA is thus condoned. The MA is disposed of accordingly.

MA 1056/2025

Vide this application, the respondent seeks condonation of delay of 14 days in filing the counter affidavit. In view of the averments made in the application the delay is condoned and the counter affidavit is taken on record. Accordingly, MA stands disposed of.

O.A. No. 1056 of 2023

Invoking the jurisdiction of the Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter referred to as 'AFT Act'), the applicant has filed this OA and the reliefs claimed in Para 8 read as under:-

- “(a) Direct the respondents to enhance the Reservist Pension of the applicant from Rs. 3500/- PM to Rs 4443/- PM w.e.f. 01.07.2014 and thereafter to Rs. 11,420/- PM w.e.f. 01.01.2016.***
- “(b) Direct the respondents to grant subsequent enhancement in pension of the applicant in***

- (c) **Direct the respondents to pay interest over the arrears @12% per annum till actual payment is made.**
- (d) **Pass any other or further order(s) which this Hon'ble Tribunal considers appropriate in the facts and circumstances of this case.**

And for this act kindness the applicant as duty bound shall pray."

2. The applicant was enrolled in the Army (Dogra Regiment) on 04.06.1960 and, after completing 7 years and 295 days of colour service, was transferred to the Reserve. He thereafter rendered 7 years and 97 days of reserve service. Upon completing a total of 15 years and 27 days of combined colour and reserve service, he was transferred to the Reserve Pension Establishment w.e.f 30.06.1975 (AN) under Item III(1) of the Table annexed to Rule 13(3) of the Army Rules, 1954.

3. The applicant was granted Reservist Pension @ Rs. 15/- per month for life w.e.f 01.07.1975, vide Pension Payment Order (PPO) No. S/020037/1975 dated 13.11.1975, issued by CDA (Pensions), Allahabad, in accordance with Regulation 155 of the Pension Regulations for the Army, 1961 (Part I). His pension has been periodically revised in line with recommendations of various

Central Pay Commissions (CPCs). Under the 7th CPC, his basic pension was fixed at Rs. 9000/- per month w.e.f. 31.10.2016, whereas, the applicant contends that he is entitled to 2/3rd of the pension of a regular Sepoy under Regulation 155, which amounts to Rs. 11,420/- per month (i.e., 2/3rd of Rs. 17,130/- being the minimum pension of a Sepoy under the 7th CPC). The applicant submitted three representations in relation to the abovementioned contention of him to the OIC Records, Dogra Regiment on 06.12.2019, 16.05.2020, and 23.11.2020, seeking revision of pension. However, all were rejected with the reply that he was not eligible for pension revision under the OROP scheme. Subsequently, the applicant sent a legal notice dated 14.02.2023 through his counsel, which was also rejected on similar grounds.

4. Aggrieved by the denial of enhanced pension benefits under Regulation 155, the applicant filed the present OA on 19.04.2023 for revision of Reservist Pension to 2/3rd of minimum pension of Regular Corporal as per 7th CPC w.e.f 1.1.2016. In the interest of justice, the matter is being

taken up for consideration under Section 21(1) of the Armed Forces Tribunal Act, 2007.

CONTENTIONS OF THE PARTIES

5. The learned counsel for the applicant submitted that the applicant has served in the Indian Army with complete dedication and had rendered the required period of active and reserved of 15 years. Hence, the applicant was granted reservist pension and revision of pension as ordered by the Government of India, Ministry of Defence, on different dates.

6. The learned counsel for the applicant further submitted that, in accordance with Regulation 155 of the Pension Regulations for the Army, 1961 (Parts I & II), the pension admissible to a reservist should be equal to two-thirds of the last pension admissible to a Sepoy, and in no case shall it be less than Rs. 3,500/- per month w.e.f 01.01.2006. However, contrary to the provisions of the said regulation, the applicant's pension was not enhanced accordingly and was instead fixed as a consolidated pension of Rs. 3500/- per month with effect from 01.01.2006. Subsequently, the pension of a regular Sepoy has been revised multiple times following the implementation of the

6th and 7th Central Pay Commissions and the grant of One Rank One Pension (OROP). Despite this, the applicant's basic pension was fixed at Rs. 9,000/- per month w.e.f. 01.01.2016 and has not been revised in proportion to the enhanced pension of a regular Sepoy, which presently stands at a minimum of Rs. 17,130/- per month as per 7th CPC. The learned counsel further submitted that as per the mandate of Regulation 155, the applicant is entitled to two-thirds of this amount, i.e., Rs. 11,420/- per month w.e.f. 01.01.2016 and this base amount may have further increased following recent revisions in pension for all ranks by the Central Government. Nevertheless, in violation of the said regulation, the applicant's pension was arbitrarily fixed at Rs. 9,000/- per month, thereby causing a continuing financial loss.

7. The learned counsel for the applicant also placed reliance on the order of the Armed Forces Tribunal (RB) Chandigarh in OA 1429/2017 titled as **Darshan Singh Bal & Ors. vs Union of India & Ors.** as well as on the order of the AFT (RB) Chennai, at Circuit Bench, Hyderabad in the case of OA 156/2017 titled as **Ex L/Nk Yenumula**

Sivaramayya vs. Union of India & Ors. wherein similarly situated personnel were given relief.

8. *Per Contra*, the learned counsel for the respondents submitted that according to Para 155 of Army Pension Rules, a reservist (someone who served in active duty and reserve for at least 15 years) is eligible for a pension equal to $2/3^{\text{rd}}$ of the lowest pension given to a sepoy, but he must receive at least the government's fixed minimum pension, even if $2/3^{\text{rd}}$ amount is lower. Over time, the minimum pension has been revised upwards, and as of 2006, it was fixed at Rs. 3,500/- per month. Subsequently, the basic pension of a Sepoy was revised to Rs. 5,152/- in July 2014, making two-thirds of that amount Rs. 3,435/-. Since this figure was less than the minimum pension of Rs. 3,500/-, the applicant was although paid the higher amount of Rs. 3,500/- per month as per the applicable rules under 6th CPC, the total amount of applicant's reservist pension was Rs. 7,665/- [(Rs. 3500/-)+ Dearness Relief(119% i.e. Rs. 4,165/-)]. After 7th CPC the basic minimum pension was further increased to Rs. 9,000/-. Therefore, the learned counsel contended that the applicant's pension was

accurately calculated in accordance with the prevailing regulations, and no error or injustice has occurred. Accordingly, the learned counsel prayed for dismissal of the Original Application.

ANALYSIS

9. We have heard the parties at length and perused the various documents produced before us by both the parties. The claim of the applicant is that he has completed the qualifying service for reservist pension in the Army and he is legitimately entitled to reservist pension at 2/3rd of the minimum rank pension of a Sepoy. The claim of the applicant has been summarized by him in a tabular form, which is reproduced below:-

Sl. No	Pension (15 yrs)	As per 6th CPC w.e.f. 01.01.2006	33 years D/L w.e.f. 01.01.2006	OROP w.e.f. 01.07.2014	As per 7th CPC w.e.f. 01.01.2016
1	Service Pension of Sepoy	Rs.3,500/-	Rs.4,940/-	Rs.6,665/-	Rs.6,665/ x 2.57 = Rs.17,130/
2	Reservist Pension granted to the Applicant	Rs.3,500/-	Rs.3,500/-	Rs.3,500/- Should have been increased to Rs. 6,665/- X 2/3 = Rs.4443/-)	Rs.3,500/- x 2.57 = Rs.8,995/- (Rs.9,000/) but should get @ (Rs.17,130/- x 2/3 = Rs.11420/-

10. As per Regulation 155 of the Pension Regulations for the Army, 1961, Part I, which states that a reservist who is not in receipt of a service pension be granted a reservist pension or gratuity in lieu at the appropriate rate indicated in Regulation 155. The relevant part of the said regulation reads to the effect:-

Reservist Pension

***155. An OR reservist who is not in receipt of a service pension may be granted, on completion of the prescribed combined colour and reserve qualifying service, of not less than 15 years, a reservist pension equal to 2/3rd of the lowest pension admissible to a sepoy, but in no case less than Rs. 375/- p.m. on his transfer to pension establishment either on completion of his term of engagement or prematurely, irrespective of the period of colour service,**

*** Amended vide MOD letter No. 1(5)/87/D. (Pen/Services) dated 30/10/87.**

from the above provision, it is clear that the reservist pension is equivalent to 2/3rd of the minimum pension admissible to Sepoy having 15 years of qualifying service.

11. However, the respondents submit that various circulars and letters issued by the Government of India, including PCDA (P) Allahabad Circular No. 430 dated 10.03.2010, Circular No. 501 dated 17.01.2013, and

Circular No. 555 dated 04.02.2016, clearly exclude UK/HKSRA, Pakistan/Burma pensioners, Reservists, Ex-Gratia recipients from the benefits of pension revision extended to regular sepoy and officers, and as such, the applicant is not entitled to the enhanced pension claimed.

12. As per the 6th Central Pay Commission (CPC), the lowest pension admissible to a Sepoy (Group D) was Rs. 3,883/-. Since the pension of the applicant was to be fixed at 2/3rd of this amount i.e. the lowest pension admissible to a Sepoy of Group D under the provisions of the Pension Regulations for the Army 1961 (Part-1), his actual pension as per revised rate was fixed @ Rs. 2,589/- per month w.e.f. 01.01.2006 and as per Para 155 wherein it is stated that in no case the amount should be less than minimum pension, the applicant's pension was fixed at Rs. 3,500/- per month w.e.f. 01.01.2006. Similarly, under the 7th CPC, while 2/3rd of the minimum pension admissible to a reservist was Rs. 8,827/-, the applicant was granted a higher beneficial pension of Rs. 9,000/- per month.

13. The only question that falls for consideration is whether the applicant is entitled to OROP benefits and get

reservist pension of Rs. 4443/- against Rs. 3500/- from 01.07.2014 and Rs. 11,420/- against Rs. 9,000/- from 01.01.2016?

14. The letter No. 1(2)/2023/D(Pen/Pol) dated 04.09.2024, of Ministry of Defence, Government of India, which relates to revision of pension of Defence Forces Pensioners/ Family Pensioners under One Rank One Pension (OROP) w.e.f. 01.07.2024 clearly states the applicability of the provision of the said letter in Paras 3 and 3.1, the said paras are to the effect:-

"APPLICABILITY

3. The provisions of this letter shall be applicable to all defence pensioners/ family pensioners who had been retired/discharged/invalided out from service/died in service or after retirement in the rank of Commissioned Officers, Honorary Commissioned Officers, JCOs/ORs and Non-Combatants (Enrolled) of Army, Navy, Air Force, Defence Security Corps, Territorial Army & Ex-State Forces and are in receipt of pension/family pension as on 01.07.2024 (except pensioners retired on or after 01.07.2014 on pre mature retirement/own request).

3.1 The provisions of this letter, however, do not apply to UK/HKSRA/KCIO pensioners, Pakistan & Burma Army pensioners, Reservist pensioners, pensioners in receipt of Ex-gratia payments and pre-mature retirement/own request pensioners retired on or after 01.07.2014 (as provided in Para 4 of MoD Notification dated 07.11.2015).

(emphasis supplied),"

It is evident from the above mentioned provision that the revision of pension under one rank one pension (OROP) does not apply to the Reservist Pensioners, hence in view thereof the applicant is not entitled to the revision of Reservist Pension.

15. In support of our analysis, reliance may also be placed on the order of the Armed Forces Tribunal, Regional Bench, Chennai, in **OA No. 61/2021 with MA No. 53/2021**, titled ***Ex CPL R. Sellamuthu vs. Union of India & Others***, wherein the Hon'ble Tribunal held that the applicant was entitled only to two-thirds of the minimum pension of a Regular Sepoy and was not entitled to the pensionary benefits under OROP.

16. In fact, the Hon'ble High Court of Punjab and Haryana at Chandigarh, in *CWP No. 17046 of 2024 [SCC OnLine P&H 11727]*, clearly held that One Rank One Pension (OROP) benefits are not admissible to reservist pensioners. The Court reasoned that reservist pensioners form a distinct class and do not fall within the purview of regular pensioners who are entitled to OROP. Accordingly, the

petition claiming extension of OROP benefits to reservists was dismissed.

17. In view of the provisions of Regulation 155 of the Pension Regulations for the Army, 1961, Part I and abovementioned facts in analysis, we do not find any legal validity in the applicant's claim for enhanced reservist pension at Rs.4443/- from 01.07.2014 and Rs.11,420/- from 01.01.2016. However, he is entitled to 2/3rd of the minimum pension of a regular sepoy w.e.f. 01.01.2016 as per Regulation 155 of the Pension Regulations for the Army, 1961 (Part I) which he is already in receipt of and the same is evident that the applicant is receiving the Reservist Pension at the rate of Rs.9,000/- as per the recommendations of 7th Central Pay Commission. Hence, the applicant is not entitled to the enhanced pensionary benefits of OROP that is seeking through this present OA.

CONCLUSION

17. Keeping the above in view, there is no merit in the contention of the applicant and the case is dismissed being devoid of merit.

18. There is no order as to costs.

Pronounced in open Court on this 18th day of July,
2025.

[JUSTICE NANDITA DUBEY]
MEMBER (J)

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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