

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

17.

MA 2740/2025 in OA 297/2018

Ex Sub Dhoomi Ram Yogi Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. A K Trivedi, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC with
Mr. R.S. Chillar, Advocate
Capt Isha Mehrotra, OIC, Legal Cell

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
07.07.2025

MA 2740/2025

The applicants i.e. the UOI and other respondents arrayed to OA 297/2018 vide the present application make the following prayers:-

*“(i) Modify/correct and restrict the date of grant of pay fixation as 3 years prior to the date of filing of the O.A. No. 297/2018, instead of 01 Jan 1996.
(ii) Allow the respondents a further period of 3 months to implement the modified order/s.
(iii) Any other order(s) may be passed as deemed appropriate in the facts and circumstances of the case.”*

2. Vide order dated 12.12.2024 in OA 297/2018, the OA filed by the applicant Ex Sub Dhoomi Ram Yogi(JC-187165F) instituted on 31.01.2018 was disposed of with directions to the effect:-

"13. In view of the above, OA 297 of 2018 is allowed. The respondents are directed to grant the benefit of fixation of the applicant's pay in the revised new pay scale of Group Y' in the rank of Sub i.e. Rs. 6600-170-9320 with effect from 01.01.1996 and all pensionary benefits of the applicant be also revised.

14. Consequently, the respondents are directed to calculate, sanction and issue the necessary order/PPO to the applicant within three months from the date of receipt of copy of this order, failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment.

15. There is no order as to costs."

3. The applicant i.e. UOI, the respondents arrayed to OA 297/2018 seek to submit that the grant of the arrears in terms of the order of which modification is sought by the applicants be confined to a period of three years prior to the institution of the OA, placing reliance on the judgment of the Hon'ble Supreme Court in *UOI & Ors vs Tarsem Singh* (2008) 8 SCC 648. It is essential to observe that vide the orders of which modification is sought by the applicants relates to the grant of benefits of fixation in the pay scale of the applicant as granted vide the order dated 12.12.2024. The benefits in terms of the said order have been granted in terms of the settled law in the case of *Jai Narayan Jakhar vs. UOI and Anr* in CWP no. 15400/2006 decided on 14.01.2008 by the Hon'ble High Court of Punjab and Haryana already followed and adhered to by this Tribunal in a series of cases. The SLP(Civil) no. 15128/2008 titled *UOI vs. Jai Narayan Jakhar* against the said judgment was dismissed by the Hon'ble Supreme Court vide judgment dated 21.11.2008.

4. Vide Paras-7 to 13 of order dated 12.12.2024 in OA 297/2018, it was directed to the effect:-

"7. We have heard the learned counsel for the parties and have gone through the records produced before us.

8. Having heard the submissions made by the parties, we hold that the argument of the respondents that the applicant is not entitled to the benefit of the revised new pay scale as he was discharged from service before 10.10.1997 and the revised pay and allowances were made effective on or after 10.10.1997, is wholly unjustified. It was during the implementation of 5th CPC report, that it was found by the respondents that there is anomaly in the pay scales. As per the SAI 1/S/97, the benefit of revised pay scales and allowances is available to those also who were in service as on 01.01.1996 as the said benefit were to be effected w.e.f. 01.01.1996 and in the instant case, the applicant was discharged on 31.10.1996 and thus he was on the effective strength of the Army on 01.01.1996 and the applicant was entitled to the benefit of the revised pay scales and allowances.

9. The applicant was recruited in Group B' and was discharged in the rank of Sub on 31.10.1996. Based on the recommendation of the Inter Service Committee, the trade groups known as 'A', 'B', 'C', 'D' and 'E' were merged into three groups which resulted in enhancement of pay structure to the lower group as group 'E' was merged into higher group which was known as Group 'Z' and similarly Groups 'B', 'C' and 'D' were merged into higher group as Group 'Y' and Group 'A' was merged into higher group as Group 'X'. The revised trades groups in the Army, Air Force and Navy were re-named as Groups 'X', 'Y' and 'Z'. However, the said benefit of merger into the new groups was made effective from 10.10.1997 by the Govt. and the benefit of this revised pay scale was not given to Pre-10.10.1997 retirees.

10. The issue involved in the present matter is no more res integra as the law on this point has already been settled by the Hon'ble High Court of Punjab and Haryana in the case of Jai Narayan Jakhar Vs. Union of India and another [CWP No. 15400 of 2006] decided on 14.01.2008, which has been followed in numerous orders of the AFT (PB) and by the Regional Benches of the Tribunal for grant of the benefit of revision of pay scales w.e.f. 01.01.1996 and setting aside the revision of trades groups w.e.f. 10.10.1997

In that case, the Honble High Court observed as under :

"The petitioner has claimed a writ of mandamus directing the respondents to release the retiral benefits of the petitioner in the pay scale of 5620-140-8140/-. The petitioner was appointed on 07-09-1974 as Navy Boy. He attained the age of superannuation on 31-05-1996 as Chief Petty Officer. On the date of superannuation his pay scale was 4650-125-6900/-. The Department found that there is anomaly in the implementation of the recommendations of the 5th Pay Commission and consequently vide circular Annexure P1, Chief Petty Officers were given pay scale of 5620-140-8140/-. However, it was pointed out that such revised pay scales shall be given effect from 10-10-1997. Subsequently, on 16-12-1997 vide Annexure P2, it was pointed out that the subsequent enhancement in scales as approved by the Government of India, Ministry of Defence on 21-11-1997 will be effective from 10-10-1997. The provisions of such instructions are applied to all the categories of personnel, who were on the effective strength of the Navy as on 01-01-1996 or who join the Navy service thereafter. The benefit of such revised pay scale on account of removal of anomaly was not extended to the petitioner for the reason that he has attained the age of superannuation on 31-12-1996 i.e. prior to issuance of circular Annexures P1 and P2 as the said anomaly was sought to be removed effective from 10-10-1997. It is contended by the petitioner that once the anomaly in the pay revision is sought to be removed, it shall be applicable to the petitioner, who has retired after the implementation of recommendation of the 5th Pay Commission w.e.f. 01-01-1996 and thereafter the artificial date fixed as 10-10-1997 is wholly unjustified and irrational. In reply, it has been pointed out that the implementation of 5th Pay

Commission recommendation the pay scales were introduced in two phases i.e. firstly, from 01-01-1996 to 09-10-1997 and secondly from 10-10-1997 onwards. The introduction of second revision of pay scales w.e.f. 10-10-1997 was an outcome of trade rationalization in the Armed Forces based on the recommendations of the report of Ajit Kumar Committee constituted by the Ministry of Defence. Since the pay scales were revised in two phases and the petitioner was not in service as on 10-10-1997, the petitioner is not entitled to revision in retiral benefits.

Having heard the learned counsel for the parties, we are of the opinion that the stand of the respondents that the petitioner is not entitled to the benefit of removal of anomaly in the Pay Commission is wholly unjustified. It was during the implementation of 5th Pay Commission report, it was found by the respondents that there is anomaly in the Pay Scales. Once the anomaly in the Pay Scales is found and sought to be removed then it has to be removed from the implementation of the recommendation of the Pay Commission i.e. 01-01-1996. There is no explanation as to why the said anomaly is sought to be removed from 10-10-1997. In the absence of any explanation of removal of anomaly from 10-10-1997, we do not find the action of the respondents fixing such date as justified. Consequently, we hold that the petitioner is entitled to the revised pay scale of 5620-140-8140/- w.e.f. 01-01-1996. Thus the petitioner shall be entitled to the retiral benefits on the said pay scale. In view of the above, we allow the present writ petition and direct the respondents to recalculate the amount of pension on the basis of revised pay scale of 5620-140-8140/- w.e.f. 01-01-1996. The exercise be completed within a period of three months from today. The writ petition stands disposed of in above terms."

11. Challenging the aforesaid judgment dated 14.01.2008 of the Hon'ble Punjab and Haryana High Court, the Union of India filed a Special Leave Petition, viz. in SLP (Civil) No. 15128 of 2008 titled *Union of India Vs. Jai Narayan Jakhar* before the Hon'ble Supreme Court, which was dismissed by the Hon'ble Supreme Court vide its judgment dated 21.11.2008 and thus the judgment under challenge stood affirmed and attained finality. 12. The applicant is thus held entitled to the revised pay scale of Y' group in the rank of Sub i.e. Rs. 6600-170-9320 w.e.f. 01.01.1996, and consequently is also entitled to the pensionary/retiral benefits on the said pay scale.

13. In view of the above, OA 297 of 2018 is allowed. The respondents are directed to grant the benefit of fixation of the applicant's pay in the revised new pay scale of Group Y' in the rank of Sub i.e. Rs. 6600-170-9320 with effect from 01.01.1996 and all pensionary benefits of the applicant be also revised."

5. It is essential to observe that the aspect of the grant of the benefits of the requisite pay fixation from the time from when a personnel is entitled to the same has been considered in Writ Petition no. 9218/2012 in *Veena Haresh Sadhwani and Ors. vs. The President/Secretary, Hyderabad(Sind) National Collegiate Board and Ors.* with Writ Petition no. 2677/2016 in *Renuka Sughanlal Rupani and Ors. vs. The Hyderabad(Sind) National Collegiate Board through Secretary and Ors.* with Writ Petition no. 3395/2016 in *Seema Ram Karachandani and Ors. vs. The President/Secretary, Hyderabad(Sind) National Collegiate Board and Ors.* with Writ Petition no. 4191/2016 in *Late Suresh Asrani and Anr.. vs. The Hyderabad(Sind) National Collegiate Board through Secretary and Ors.* with Writ Petition no. 4878/2013 in *Geeta Manohar Chawla vs. The Hyderabad(Sind) National Collegiate Board through Secretary and Ors.* with Writ Petition

no. 5311/2011 in *Pratibha Dattatray Kulkarni and Ors. vs. Keraleeya Samajam and Ors.* with Writ Petition no. 5338/2000 in *Keraleeya Samajam and Ors. vs. State of Maharashtra and Ors.* with Civil Application no. 2867/2016 in Writ Petition no. 9218/2012 in *Shaima Sudhakaran and Ors. vs. Keraleeya Samajam and Ors.* vide judgment of the Hon'ble High Court of Judicature at Bombay dated 28.06.2019 wherein the contentions raised on behalf of the schools as reflected in Para-8 of the said judgment have been dealt with and disposed of with observations to the effect:-

"8. The contention of learned Counsel for the Schools to restrict arrears to three years preceding the filing of the Writ Petition is noted and rejected for the reason law is clear. Liability as per law is also clear and thus there is no reason to deny full wages not being paid to the teachers."

6. The said judgment of the Hon'ble High Court of Judicature at Bombay was assailed in Special Leave Petition(C) 21660-21661/2019 in the case of *Keraleeya Samajam & Anr. vs. Pratibha Dattatray Kulkarni (Dead) through LRs & Ors.* and vide Para-4 of the judgment dated 01.10.2021 of the Hon'ble Supreme Court in the said SLP 21660-21661/2019, it has been observed to the effect:-

"4. Having heard Shri Shekhar Naphade, learned Senior Advocate appearing on behalf of the petitioners and learned counsel appearing on behalf of the respondents and considering orders passed in earlier round of litigations which ended up to this court the liability of the management to pay the salaries to the teaching and non-teaching staff as per the 4th Pay Commission and 5th Pay Commission

ended in favour of the teaching and non-teaching staff working with the petitioners. Therefore as and when the 6th Pay Commission recommendations was made applicable as such it was the duty cast upon the petitioners' institution to pay the salary/wages to the teaching and non-teaching staff as per the applicable pay scale as per the 6th Pay Commission recommendation and for which the staff was not required to move before the Deputy Director (Education) again and again. Therefore, the submissions on behalf of the petitioners that as the respondents approached the Deputy Director (Education) subsequently and therefore the question with respect to the limitation will come into play and therefore the respondents shall be entitled to the arrears of last three years preceding the filing of the writ petitions cannot be accepted."

7. It is thus apparent that those who are entitled to the relevant pay commission recommendations as and when due to them are entitled to receive the same and do not need to come to the Tribunal or to the Courts to seek the requisite relief and thus the grant of arrears cannot be confined to preceding to a period of three years filing of the *Iis* before this Tribunal. In the circumstances, the application MA 2740/2025 is dismissed.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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