

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

83.

OA 1660/2023 with MA 2444/2023

Sub Hoti Lal (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Bikrama Sah, Advocate
For Respondents : Mr. Aseem Kumar Sahay, Advocate

CORAM

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

ORDER
11.02.2025

MA 2444/2023

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 1660/2023

2. Invoking the jurisdiction of this Tribunal under Section 14, the applicant has filed this application and the reliefs claimed vide para 8 read as under:-

“(a) OA may be 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 113/2014 Sub Chittar Singh Vs UOI & Ors and judgment dated 03.09.2021 in OA No 1182/2018 Sub M.L Shrivastava and Ors. Vs UOI.*

(b) Direct the Respondents to fix the pay of the applicant in the 6th CPC in more beneficial option as per para 14(b)(iv) of SAI 1/S/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 in 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 along with 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 Corrigendum PPO be notified revising the Pension, Gratuity and Commutation of the applicant and differences be paid to the applicant along with 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. Even though the applicant has raised various issues in the matter, the main prayer of the applicant is that his pay in transition from 6th to 7th CPC in accordance to the provision of SAI 1/S/2008 has not been fixed in the most beneficial option available and the same has been denied to him only because he did not opt for the most beneficial option. The issue as to whether

without any option, the pay fixation can be done has been settled by the law laid down by this Tribunal in the case of Sub M.L Shrivastava and Ors. Vs. Union of India and Ors. (O.A No. 1182 of 2018) decided on 03.09.2021.

4. Taking note of the aforesaid, we direct the respondents to examine the case of the applicant and in case his pay on transition from 6th to 7th CPC has not been fixed and benefits not granted only because he did not opt for the most beneficial option available to him, taking note of the principles laid down in Sub M.L Shrivastava (supra) the respondents themselves should grant the best option available to the applicant and fix his pay accordingly. However, in case, for any other reason, respondents feel the applicant is not entitled to the benefits granted hereinabove, it is incumbent upon them to indicate the same by passing a speaking order.

5. OA stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

Priya