

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

80.

OA 3162/2023 with MA 4347/2023

EX CPO COM (EW)

Ramesh Kumar Sharma & Ors.

..... Applicant

Versus

Union of India & Ors.

..... Respondents

For Applicant : Mr. Ved Prakash and

Mr. Devendra Kumar, Advocate

For Respondents :

Mr. Satya Ranjan Swain, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

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

ORDER

14.02.2025

MA 4347/2023

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.

OA 3162/2023

2. Invoking the jurisdiction of this Tribunal u/s 14 the applicant has filed this application and the relief claimed in para 8 reads as under:

(a) Quash and set aside the Impugned Letters No. PA6300 dated 14.06.2022, PA/6304/02(ii) dated 05.09.2022 PA/6304/02(iii) dated 12.09.2022.

(b) Direct the respondents to refix (step up) the basic pay of the applicants from Rs. 41,00/- to Rs. 42,300/- in most beneficial manner and revised service pension accordingly.

(c) Direct the respondents to pay arrears of Pay and Service pension with 12% p.a.

(d) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents.

3. Today when the matter is taken up for hearing, learned counsel for the applicant made a statement that the claim made by the applicant primarily on the ground of pay fixation on transition upto 7th CPC from 6th CPC is covered 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 and as far as comparison of the pay of the applicant with juniors to him are concerned, the applicant does not make the said prayer. It is the case of the applicant that they would be satisfied in case the pay fixation of the applicant is done following the principles laid down in the case of Sub M.L Shrivastava and Ors. supra.

4. Having considered the statement made by learned counsel for the applicant and on a perusal of the impugned order passed in the case of the applicants filed collectively as Annexure A-1, we find that in para 3 of the said order, the following reasons have been indicated for non grant of benefit to the applicant:

3. *"In this regard, it is intimated that the pay fixation has been carried out in accordance with NPR 2017. You were eligible for transition under Option II (i.e. transition to 7th CPC wef 01 Jul 16). However, the same was not exercised by you even after extension of date till 01 Feb 20".*

5. A perusal of the aforesaid reasons would clearly show that for pay fixation in accordance to NPR 2017, the applicant was eligible for transition under option 2 but the benefit was not granted to him

because he did not exercise the option within time limit fixed i.e. 01.02.2020. This issue has been resolved and the principles laid down in the case of **Sub M.L Shrivastava and Ors.** supra is to the effect that it is the duty of the pay fixation authority to grant the best benefit available to the applicant even if, he had not submitted the option. That being so, the prayer made by the applicant in this case and the reasons given in the Impugned Order Annexure A-1 in para 3 reproduced hereinabove is clearly in violation to the law laid down in the case of **Sub M.L Shrivastava and Ors.** supra. Accordingly, we find much in the prayer made by the learned counsel for the applicant ignoring the prayer made by the applicant for stepping up his pay and comparing his pay, we direct the respondents to examine the case of each of the applicants individually and in case their pay fixation in accordance with NPR 2017 in transition to 7th Pay Commission wef 01.07.2016 was not done only because they did not submitted the option available on or before 01.02.2020. The option having been deemed to be submitted and based on the law laid down in the case of **Sub M.L Shrivastava and Ors.** supra benefit be granted to the applicant within three months

6. Let a copy of this order be given 'DASTI' to both the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)