

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

4.

OA 346/2025 with MA 550/2025

Gp Capt Sanjeev Kumar Gupta (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER
19.02.2025

MA 550/2025

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 346/2025

2. This application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant, a retired Gp Capt and aggrieved by the incorrect pay fixation in 7th CPC resulting in continuous financial loss and disadvantage to him, is seeking the following reliefs:

“(a) To direct the Respondents to resolve the anomaly in the pay of the Applicant as per most beneficial option.

(b) To direct the Respondents to fix pay in a matter that is most beneficial to the applicant and other allowances w.e.f. 01.01.2016 (7th CPC).

(c) To direct the respondent to pay 12% interest on the arrears accrued to the applicant.

(d) To grant other relief appropriate to the facts and circumstances of the case as deemed fit and pro.”

3. The applicant was commissioned in the Indian Air Force on 14.12.1991 and promoted to different rank leading ultimately to Gp Capt on 31.03.2015. After serving for more than 32 years the applicant superannuated on 30.04.2024. He is aggrieved of the fact that his pay was wrongly fixed in the VIIth CPC w.e.f 01.01.2016 as he was promoted to the rank of Gp Capt (Select) on 31.03.2015 i.e., before 01.01.2016, the date of implementation of VIIth CPC recommendations. The implementation of VIIth CPC brought changes to the pay structure of all employees. The officers who were promoted before 01.01.2016 were drawing lesser basic pay compared to those promoted post-01.01.2016 due to which the applicant's pay was not aligned with the revised pay structure.

4. On a query being raised in this regard in May, 2023, the respondents informed the applicant that under the 5th CPC his pay was already stepped up due to being lower than a junior. He was further informed that stepping up provision is available only once in an officer's career and this opportunity has already been availed by the applicant at the time of implementation of 5th CPC recommendations, therefore nothing could be done regarding the present anomaly.

5. Aggrieved by this, the applicant submitted a representation before the Competent Authorities which was rejected addressing the same reason. The applicant further contends that this anomaly in his pay occurred because he was not guided to choose the option and was not aware of the most beneficial option available at the time of filling up the form for implementation of VIIth Pay Commission and for this reason his pay was wrongly fixed and he is drawing less basic pay. The applicant thereafter also submitted a Statutory Complaint on 01.04.2024 before the Competent Authority raising all these anomalies.

6. The respondents rejected his statutory complaint vide letter dated 29th April, 2024 stating that the applicant's pay

was stepped up with his junior in 5th CPC and as per provisions of FR 22 the benefits of stepping up of pay can be allowed to a senior official, second time, provided the anomaly has arisen with reference to the pay of the same junior, with reference to whom the pay of senior was stepped up first time therefore the pay of the applicant cannot be stepped up with his course mates who were promoted on or after 01 Jan 2016. It is however, contended that the applicant is seeking re-fixation of his pay as per recommendations of the 7th CPC and not stepping up.

7. Further the contention of the applicant that it is for the respondents to fix his pay and pension in the most beneficial manner as per provisions of SAFI 1/S/08 dated 18.10.2008.

8. The issue raised in this OA has been dealt with by this Tribunal in the cases of Wg Cdr Harendra Singh Vs. Union of India and Ors. (OA 254/2018) decided on 21.03.2019 by Armed Forces Tribunal, Regional Bench, Chennai and in Sub Ramjeevan Kumar Singh Vs. Union of India and Ors (OA 2000/2021) decided on 27.09.2021. The relevant para of Sub Ramjeevan Kumar Singh (Supra) reads as under:-

“12. Notwithstanding the absence of the option clause in 7th CPC this Bench has repeatedly held that soldier cannot be drawing less pay than his

junior, or be placed in a pay scale/bank which does not offer the most beneficial pay scale, for the only reason that the soldier did not exercise the required option for pay fixation, or exercised it late. We have no hesitation in concluding that even under the 7th CPC, it remains the responsibility of the Respondents; in particular the PAO(OR), to ensure that a soldier's pay is fixed in the most beneficial manner.”

9. We may also note that in the matter of incorrect pay fixation, 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 Wg Cdr Bharat Malik Vs. Union of India and Ors. (OA 1923/2017) decided on 8th July, 2021 has exhaustively examined the issue.

10. In the light of the above, we therefore, allow this OA and direct the Respondents to:-

- (a) Review the pay fixed of the applicant on promotion to the rank of Gp Capt w.e.f. 01.01.2016 under the 7th CPC, and after due verification re-fix his pay in a manner that is most beneficial to the applicant., while ensuring that the applicant is not drawing less pay than his juniors.

(b) Revise the applicant's pension and issue a corrigendum PPO accordingly.

(c) Pay the arrears within three months of this order and submit a compliance report.

11. No order as to costs.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBEI]
MEMBER (A)

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