

**COURT NO. 2**  
**ARMED FORCES TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**OA 1036/2020**

**JC-811846H Sub Santosh Kumar**

**... Applicant**

**Versus**

**Union of India & Ors.**

**... Respondents**

**For Applicant** : Mr. V S Kadian, Advocate  
**For Respondents** : Gp Capt. KS Bhati, Sr CGSC

**CORAM**

**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)**

**HON'BLE LT GEN C. P. MOHANTY, MEMBER (A)**

**ORDER**

The applicant JC-811848H Sub Santosh Kumar vide the present

OA makes following prayers:

- (i) *Quash and set aside impugned letter No.LG/JC811846H/T-13/CORR dated 12.02.2019. And/or*
- (ii) *Direct respondents to step up the pay of the applicant in comparision to his counterpart in the light of judgment dated 10.12.2014 passed by this Hon'ble Tribunal in OA 113/2014 titled Sub Chittar Singh Vs UOI by making re-fixation which is beneficial. And/or*
- (iii) *Direct respondents to pay the arrears after re-fixing of pay with effect from the date of re-fixation with interest @12% p.a. And/or*

(iv) *Pass any other order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case mentioned above.*"

2. The applicant submits that he was enrolled in the Indian Army on 03.03.1992 and was promoted to the rank of Naib Subedar on 01.08.2013 and Subedar on 01.07.2016. The applicant submits that he had opted to fix his pay in the most beneficial manner from the date of promotion but the same was not fixed by the PAO(OR) Intelligence Corps by granting two increments in terms of Para 14(b)(i) of SAI 1/S/2008 and thus he is getting less pay since 01.10.2000 as compared to his juniors. The applicant further submits that despite approaching the respective offices of the respondents for fixation of his pay in the most beneficial manner, nothing has so far been done by the respondents and finally the respondents vide their Letter No. LG/JC811846H/T-13/CORR dated 12.02.2019 intimated that the pay of the applicant has been correctly fixed on promotion to Subedar by fixing the pay the pay of JCO hence the question of grant of additional increment does not arise. The applicant further submits that the GoI, MoD vide letter No.1(5)/2012/D(Pay/Services) dated 25.04.2013 and 12.06.2013 had extended the time limit for re-exercising the option for stepping up of pay and allowance upto 31.07.2013, however, he had exercised

such option prior to this date and even then he is getting less pay as compared to his juniors though he was entitled to get his pay revised in view of policy decision dated 11.10.2008 and SAI No.1/S/2008 dated 02.08.2008. The applicant has also placed reliance on the order dated 10.12.2014 in OA No.113/2014 and many others titled ***Sub.Chittar Singh & Ors Vs Union of India & Ors.*** of the AFT(PB).

3. The respondents have contended that the fixation of pay on promotion to Subedar has correctly been done by fixing the pay of the Junior Commissioned Officer as per para 10(2) of the 7<sup>th</sup> CPC at the minimum of the pay level.

4. Be that as it may, a similar matter of incorrect pay fixation has been exhaustively examined by this Tribunal in the case of **Sub M.L Shrivastava and Ors. Vs. Union of India, (O.A No. 1182 of 2018)** decided on 03.09.2021. Relevant paras for the purpose of decision in this matter are quoted below:

*“24. Having heard all parties at length, the main issue before us is whether the respective PAO(OR)s who are the Respondent office responsible for all matters of pay and allowances of personnel below officers’ rank are justified in arbitrarily fixing the pay as on 01.01.2006, without examining the most beneficial option for each individual while fixing the pay; irrespective of whether the option was exercised or not exercised, or was exercised late.*

xxxx

xxxx

xxxxx

*30. In all the three cases, the applicants have been promoted to the next rank after 01.01.2006 and prior to the issue of SAI No*

*1/S/2008 dated 11.10.2008. Under normal circumstances, the applicants ought to have exercised their option for pay fixation as given in Para 8 and 14 (b) of the SAI. There is no dispute that the time laid down for exercising the option was initially three months from the date of issue of the SAI and that this was further extended to 31.03.2011 vide Corrigendum to SAI dated 21/12/2010. The period was further extended to 30.06.2011 vide MoD letter dated 11.12.2013. The letter dated 11.12.2013 was disseminated to the environment vide AG's Branch Letter dated 12.12.2013.*

31. *It is also undisputed that if the applicants by default, are to be in the new pay scale as fixed with effect from 01.01.2006, they would be in a disadvantageous position throughout their service tenure and on retirement/ transition to 7th CPC. Moreover, it is absolutely reasonable to assume that no sane person will knowingly put himself in a disadvantageous position in service and will refuse to accept a beneficial pay scale and opt for the new pay scale that is disadvantageous.*

xxxx

xxxx

xxxxx

38. *In summary, we find that given the complexity of calculating pay and allowances, while the rules and regulations for implementation of 6th CPC had adequate safeguards to ensure that the most beneficial option was worked out and adopted for each individual, this has not been implemented with requisite seriousness and commitment by the Respondents, in particular the PAO(OR) who were the custodians to ensure this. This has resulted in serious financial implications to individuals including loss of pay and allowances whilst in service and on retirement. This has also resulted in financial loss to those who transitioned to 7th CPC with incorrect fixation of pay in the 6th CPC. The only ground for denial of the most beneficial pay scale to the applicants and many others who are similarly placed is that either the individuals did not exercise an option for pay fixation, or they exercised it late, beyond the perceived stipulated period. In the given circumstances, the respondents themselves should have taken steps to remove this anomaly, and ease out the issue for the serving soldiers, many of whom may not be knowledgeable about the intricacies of these calculations, in the full knowledge that that no one will ever knowingly opt for a less beneficial option. We emphasise the fact that it's the responsibility of the Respondents and the service authority to look after the interests of its own subordinate personnel.*

39. *In view of the above, the three OAs under consideration are allowed and we direct the Respondents to:-*

(a) *Review the pay fixed of the applicants and after due verification re-fix their pay under 6th CPC in a manner that is most beneficial to the applicants.*

(b) *Thereafter re-fix their pay in all subsequent ranks and on transition to 7th CPC where applicable, and also ensure that they are not drawing less pay than their juniors.*

(c) *Re-fix all pensionary and post retiral benefits accordingly.*

(d) *Issue all arrears and fresh PPO where applicable, within three months of this order and submit a compliance report.*

40. *In view of the fact that there are a large number of pending cases which are similarly placed and fall into Category A or B, this order will be applicable in rem to all such affected personnel. Respondents are directed to take suo moto action on applications filed by similarly aggrieved personnel and instruct concerned PAO(OR) to verify records and re-fix their pay in 6th CPC accordingly.*

5. In the light of the above consideration and the fact that the *same considerations are applicable for pay fixation of officers (Lt Col Karan Dusad Vs. Union of India and others [O.A. No.868 of 2020 and connected matters] decided on 05.08.2022) and thus also for men of all the three Services*, we find that the applicant, prima facie, is entitled to get his pay revised as per most beneficial manner and therefore, this OA No.1036/2020 is allowed and direct the Respondents to-

(a) Review the pay fixed of the applicant on promotion under the 6<sup>th</sup> CPC and 7<sup>th</sup> CPC and after due verification re-fix his pay in a manner that is most beneficial to him.

(b) Re-fix the applicant's pay on transition into 7<sup>th</sup> CPC as on 01.01.2016 in the most beneficial manner

while ensuring that the applicant is not drawing less pay than his juniors.

(c) To pay the arrears within three months of this order.

6. No order as to costs.

Pronounced in open Court on this day 22 of April, 2025.

**[JUSTICE ANU MALHOTRA]**  
**MEMBER (J)**

**[LT GEN C.P. MOHANTY]**  
**MEMBER (A)**

/CHANANA/