

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

18.

OA 1339/2023

IC 74067N- Major Varun Singh ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr Sonu Sharma, proxy for Mr Anand  
Kumar, Advocate  
For Respondents : Mr V Pattabhiram, Advocate

CORAM

HON'BLE JUSTICE ANU MALHOTRA, MEMBER(J)  
HON'BLE LT GEN C P MOHANTY, MEMBER (A)

ORDER  
11.11.2025

The applicant IC 74067N- Major Varun Singh vide the present OA filed under Section 14 of the Armed Forces Tribunal Act, 2007 makes the following prayers:

- (a) *"Set aside the impugned order dated 23.02.2023(Annexure A/1).*
- (b) *Direct respondents to review the pay of the applicant fixed on promotion to the rank of Major in October, 2016 under the 7<sup>th</sup> CPC and fix his pay in the manner that is most beneficial and*

- (c) *Direct the respondents to ensure that the applicant is not drawing less pay than his course-mates and/or juniors and*
- (d) *Direct the respondents to pay the arrears within stipulated period of time alongwith interest and/or*
- (e) *Pass any other just and equitable order in the interest of justice.*

2. The applicant was commissioned in the Indian Army on 20.03.2010 after having been found fit in all respects in the rank of Capt. and got promoted to the rank of Major on 20.10.2016. The applicant submits that on granting promotion to the rank of Major on 20.10.2016, his basic pay on the implementation of the 7<sup>th</sup> CPC was fixed at Rs.69,400/- which was less than his course mates as he was not given the beneficial option during the migration period of 7<sup>th</sup> CPC. The applicant submits that on 17.10.2020, he chose to fix his basic pay from the Date of Next Increment(DNI) and not from the date of promotion but the respondents failed to extend the beneficial option despite being duty bound to extend the same. The applicant further submits that he approached the PCDA(O) on multiple occasions for pay fixation as he was getting less basic

pay than his course-mates and the respondents vide reply dated 28.01.2021 stated to the effect:

*"Reply                      "Action is being taken. AO/SAO: Abhay Mahajan(LW)  
Reply Date: 28 Jan 2021 12:00:00"*

and finally the respondents vide reply dated 06 Mar 2023 stated to the effect:

*Reply: As intimated earlier the following is submitted please again please in this connection, it is intimated that Maj Abhinav Kumar had opted the 7<sup>th</sup> CPC option as switchover from 6<sup>th</sup> to 7<sup>th</sup> whereas you had not exercised the required option of switchover on 7<sup>th</sup> CPC. Therefore, there is a difference of pay. As regards stepping up of pay, it is stated that we are presently doing stepping of specific cases and as per the condition mentioned in the Govt letter. However, your case will be submitted to the competent authority for necessary clarification whether cases of yours can be taken or not for stepping up. Further, it is intimated that as per ADGPS IHQ of MoD Army letter No. C 7099 POLICY SAPCS 2021 dated 09.06.2021 all cases under which officers have been promoted after 01.01.2016 and upto 03.06.2021 the last date of exercising option was 03.09.2021. Further as per department of Military Affairs Letter No. 1 4 2021 D Pay Services dated 04.06.2021 in general officers should exercise option within three months from the date of promotion, third office has no power to relax the above provision and accept the option exercised after the due date. To make sure the option of the Officer who have exercise option in time reaches to PCDA(O) office within the stipulated time Officer have been given the provision of online submission also. This office has also not given any power to re-lax the provision as per the posting of the officers. We execute the orders of MoD. However, you can*

*resort to any available forum to take your case. We have already put up the case for technical advice. Regards*  
SO/SAO: SAURAV(LW).

Reply Date: 06 Mar 2023 12:00:00"

4. The applicant has relied upon a catena of orders passed by the Armed Forces Tribunal including the order in the case of *Sub M L Shrivastava & Ors Vs Union of India & Ors in OA 1182/2028 dated 30.09.2021.*

5. We have examined numerous cases pertaining to the incorrect pay fixation in 6<sup>th</sup> CPC in respect of Officers/JCOs/ORs merely on the grounds of option not being exercised in the stipulated time or applicants not exercising the option at all, and have issued orders that in all these cases the petitioners' pay is to be re-fixed with the most beneficial option as stipulated in Para 12 of the SAI 2/S/2008 dated 11.10.2008. The matter of incorrect pay-fixation and providing the most beneficial option in the case of JCOs/ORs has been exhaustively examined 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.*

6. Furthermore, it is essential to observe that the order dated 03.09.2021 in OA 1182/2018 in case of *Sub Mahendra Lal Shrivastava(Retd) v Union of India & Ors.* and two other connected matters in OA 1314/2018 in *Sub Sattaru Lakshmana Rao v Union of India & Ors.* and OA 892/2019 in *Sub(TIFC) Jaya Prakash v Union of India & Ors.* has been upheld by the Hon'ble High Court of Delhi vide judgment dated 05.05.2025 in WP(C) 5880/2025 in *UOI & Ors. vs. Sub Mahendra Lal Shrivastava(Retd)* with observations in Para-24 and 25 thereof to the effect:-

"24. There are various reasons why, in our view, this writ petition cannot succeed: (i) Firstly, the writ petition has been preferred more than 3½ years after the passing of the impugned judgment, without even a whisper of justification for the delay. (ii) The writ petition is, therefore, liable to be rejected even on delay and laches. Nonetheless, as the issue is recurring in nature, we have examined it on merits. (iii) It appears that the earlier decision of the AFT in Sub Chittar Singh has never been challenged by the petitioner. It is well settled that the UOI cannot adopt a pick and choose policy, and leave one decision unchallenged, while challenging a later decision on the same issue. Moreover, we find that the AFT, in the impugned order, has placed reliance on the decision in Sub W.P.(C) 5880/2025 Page 17 of 19 Chittar Singh which, as we note, remains unchallenged. (iv) Even on merits, there is no substance in the present petition. The reasoning of the AFT is unexceptionable. Though para 8 of the SAI required persons to exercise the option regarding the manner in which they were to be extended the benefit of the revised pay scales within three months of the SAI, which was issued on 11 October 2008, it was extended twice. It was first extended by letter dated 21 December 2010 till 31 March

2011. Subsequently, by letter dated 11 December 2013, it was directed that applications for change of option received till 30 June 2011 would be processed. Though it is correct that the respondents did not exercise their option within that period, it is also clear that each of the respondents had exercised their option prior to 30 December 2013. (v) Moreover, we are also in agreement with the AFT's reliance on clause 14(b)(iv) of the SAI, which mandated that, if no option was exercised by the individual, the PAO would regulate the fixation of pay of the individual on promotion to ensure that he would be extended the more beneficial of the two options, i.e., of either of re-fixation of pay with effect from 1 January 2006 or w.e.f. the date of his next promotion. (vi) We are in agreement with the AFT that, given the fact that the instruction was pertaining to officers in the army, and was inherently beneficial in nature, it has to be accorded an expansive interpretation. The AFT has correctly noted that the W.P.(C) 5880/2025 Page 18 of 19 very purpose of granting extension of time for exercise of option was to cater to situations in which the officers concerned who in many cases, such as the cases before us, were not of very high ranks, would not have been aware of the date from which they were required to exercise their option and therefore may have either exercised their option belatedly or failed to exercise their option. It was, obviously, to ensure that an equitable dispensation of the recommendations of the 6th CPC that clause 14(b)(iv) place the responsibility on the PAO(OR) to ensure that the officers were given the more beneficial of the options available to them. (vii) There is no dispute about the fact that, by re-fixing the pay of the respondents w.e.f. 1 January 2006 instead of the date from which they were promoted to the next grade between 1 January 2006 and 11 October 2008, the respondents suffered financial detriment. They, therefore, were not extended the most beneficial of the two options of pay of fixation available to them, as was required by clause 14(b)(iv) of the SAI.

25. We, therefore, are in complete agreement with the impugned judgment of the AFT and see no cause to interfere therein.

7. Similarly, in the matter of incorrect pay fixation in the 7<sup>th</sup> CPC, the issue has been exhaustively examined in Sub Ramjeevan Kumar Singh Vs. Union of India [O.A.

No.2000/2021] decided on 27.09.2021. Relevant portions are extracted below:

*"12. Notwithstanding the absence of the option clause in 7<sup>th</sup> CPC, this Bench has repeatedly held that a soldier cannot be drawing less pay than his junior, or be placed in a pay scale/band 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 7<sup>th</sup> 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.*

*13. In view of the foregoing, we allow the OA and direct the Respondents to:-*

*(a) Take necessary action to amend the Extraordinary Gazette Notification NO SRO 9E dated 03.05.2017 and include a suitable 'most beneficial' option clause, similar to the 6<sup>th</sup> CPC. A Report to be submitted within three months of this order.*

*(b) Review the pay fixed of the applicant on his promotion to Naib Subedar in the 7<sup>th</sup> CPC, and after due verification re-fix his pay in a manner that is most beneficial to the applicant, while ensuring that he does not draw less pay than his juniors.*

*(c) Issue all arrears within three months of this order and submit a compliance report.*

*(d) Issue all arrears within three months of this order and submit a compliance report."*

8. In respect of officers, the cases pertaining to pay-anomaly have also been examined in detail by the Tribunal in the case of Lt Col Karan Dusad Vs. Union of India and others [O.A. No.868 of 2020 and connected matters] decided on 05.08.2022. In that case, we have directed CGDA/CDA(O) to issue necessary instructions to review pay-fixation of all officers of all the three Services, whose pay has been fixed on 01.01.2006 in 6<sup>th</sup> CPC and provide them the most beneficial option. Relevant extracts are given below:

*"102 (a) to (j) xxx*

*(k) The pay fixation of all the officers, of all the three Services (Army, Navy and Air Force), whose pay has been fixed as on 01.01.2006 merely because they did not exercise an option/ exercised it after the stipulated time be reviewed by CGDA/ CDA(O), and the benefit of the most beneficial option be extended to these officers, with all consequential benefits, including to those who have retired. The CGDA to issue necessary instructions for the review and implementation.*

Directions

*"103. xxx*

*104. We, however, direct the CGDA/CDA(O) to review and verify the pay fixation of all those officers, of all the three Services (Army, Navy and Air Force), whose pay has been fixed as on 01.01.2006,*

*including those who have retired, and re-fix their pay with the most beneficial option, with all consequential benefits, including re-fixing of their pay in the 7<sup>th</sup> CPC and pension wherever applicable. The CGDA to issue necessary instructions for this review and its implementation. Respondents are directed to complete this review and file a detailed compliance report within four months of this order."*

9. In view of the judgment of the Hon'ble Supreme Court in Civil Appeal 1943/2022 in *Lt Col Suprita Chandel vs. UOI & Ors.* whereby vide Paras-14 and 15 thereof, it has been observed to the effect:-

*"14. It is a well settled principle of law that where a citizen aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. [See Amrit Lal Berry vs. Collector of Central Excise, New Delhi and Others, (1975) 4 SCC 714]*

*15. In K.I. Shephard and Others vs. Union of India and Others, (1987) 4 SCC 431, this Court while reinforcing the above principle held as under:-*

*"19. The writ petitions and the appeals must succeed. We set aside the impugned judgments of the Single Judge and Division Bench of*

*the Kerala High Court and direct that each of the three transferee banks should take over the excluded employees on the same terms and conditions of employment under the respective banking companies prior to amalgamation. The employees would be entitled to the benefit of continuity of service for all purposes including salary and perks throughout the period. We leave it open to the transferee banks to take such action as they consider proper against these employees in accordance with law. Some of the excluded employees have not come to court. There is no justification to penalise them for not having litigated. They too shall be entitled to the same benefits as the petitioners. ...."*  
(Emphasis Supplied)",

all persons aggrieved similarly situated may not litigate on the same issue and would be entitled to the grant of the benefits of which have already been extended to others similarly situated

10. In the light of the above considerations, the OA 1339/2023 is allowed and we direct the respondents to:

- (a) Review the pay fixation of the applicant in the rank of Maj in the 7<sup>th</sup> CPC and after due verification re-fix his pay in a manner that is most beneficial to the applicant by ensuring that the applicant is not getting less as compared to his junior or bath-mates.
- (b) To pay the arrears within three months of this order.
10. No order as to costs.

(JUSTICE ANU MALHOTRA)  
(MEMBER(J))

(LT GEN C P MOHANTY)  
(MEMBER (A))

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