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

3.

OA 1528/2025

IC-52597H Col B Girish Kumar ..... Applicant
Versus
Union of India & Ors. ..... Respondents

For Applicant : Mr. SS Pandey, Advocate
For Respondents : Maj Satvik Grover, OIC Legal Cell

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

ORDER
21.05.2025

The applicant **IC-52597H Col B Girish Kumar** vide the present OA filed under Section 14 of the Armed Forces Tribunal Act, 2007 makes the following prayers:

(a) *Call for the records wherein the Respondents have fixed the pay of the Applicant in the 6th CPC in the Rank of Maj wef 01.01.2006 and thereafter despite repeated directions, the respondents have not rectified the fixation of the pay of the Applicant in the Rank of Lt. Col. which was more beneficial to him at the time of his transition from 5th CPC to 6th CPC and thereafter quash the same.*

(b) *Issue further direction to the respondents to re-fix the pay of the applicant in the 6th CPC from the date of promotion as Lt Col. on 11.12.2006 in 6th CPC in a manner that is more beneficial to the Applicant with further direction to re-fix the pay of the applicant on further promotion to the Rank of Col. as well as on the 7th CPC based on such fixation of pay in a more beneficial manner in the Rank of Lt. Col.*

(c) *Direct the respondents to pay the difference of pay after all necessary adjustments as arrears on all such fixation with a penal interest @18% in a time bound manner*

(d) *Pass any other order/orders as deemed appropriate by this Hon'ble Tribunal in the facts and circumstances of the present case."*

2. The applicant was commissioned in the Indian Army on 11.12.1993 after having been found fit in all respects and was promoted to the rank of Lt. Col. on 11.12.2006. The applicant submits that the recommendations of the 6th CPC were accepted and implemented by the Government of India w.e.f. 01.01.2006. The implementation instructions for the 6th CPC were issued vide SAI/02/S/2008 in the case of officers. The applicant submits that his pay was not fixed in a most beneficial manner from the date of promotion instead the same was fixed in default for lack of submission of option from 01.01.2006 i.e. from the date of implementation of the

recommendations of the 6th CPC. in the Rank of Major instead of fixing the same from the date of promotion to the rank of Lt. Col. from 11.12.2006 which was more beneficial to him and this resulted in him the receiving lesser pay than his batch mates/juniors. The applicant further submits that despite the fact that fixation of pay in the 6th CPC from the date of promotion as Lt. Col. was more beneficial for the applicant, the respondents have not taken any corrective step to rectify the same. However, because of the wrong fixation of pay, his pay was fixed much lower than his entitlement and thus he was denied the benefit of fixation of pay in a more beneficial manner in the 5th CPC, 6th CPC and during the regime of the 7th CPC and such pay disparity continued due to initial wrong fixation of pay during the transition period of the 5th CPC and the 6th CPC.

3. The applicant has relied on a catena of orders of the Armed Forces Tribunal whereby the request of the individual for fixation of pay in a more beneficial manner was accepted.

3. We have examined numerous cases pertaining to the incorrect pay fixation in 6th 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.***

4. Similarly, in the matter of incorrect pay fixation in the 7th 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 7th CPC, this Bench has repeatedly held that a solider 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 solider 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.*
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> *13. In view of the foregoing, we allow the OA and direct the Respondents to:-*
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> *(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 6th 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 7th 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."

5. 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 6th 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 7th 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."

6. In the light of the above considerations, the OA 1528/2025 is allowed and the respondents are directed to:

(a) Review the pay fixed of the applicant on his promotion to the rank of Lt. Col. on 11.12.2006 in the 6th CPC and further promotion after due verification re-fix his pay in a manner that is most beneficial to the applicant.

(b) Thereafter, re-fix the applicant's pay on transition to 7th CPC and subsequent promotion(s) in a most beneficial manner.

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

7. No order as to costs.

[JUSTICE ANU MALHOTRA)
MEMBER(J)

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

/Chanana/