

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

5.

**OA 1643/2025**

**MR-06910K Lt Col. Ashutosh Ojha(Retd) .....Applicant**

**Versus**

**Union of India & Ors.**

**.... Respondents**

**For Applicant : Mr. S.S. Pandey, Advocates**

**For Respondents : Mr. Rakesh Dhawan, Advocate**

**CORAM**

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

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

**ORDER**

**29.05.2025**

The applicant MR-06910K Lt Col. Ashutosh Ojha(Retd) 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 6<sup>th</sup> 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 5<sup>th</sup> CPC to 6<sup>th</sup> CPC and thereafter quash the same.*

*(b) Issue further direction to the respondents to re-fix the pay of the applicant in the 6<sup>th</sup> CPC from the date of promotion as Lt Col. on 03.07.2008 in 6<sup>th</sup> CPC in a manner that is*

*more beneficial to the applicant with further direction to re-fix the pay of the applicant in the 7<sup>th</sup> 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.*
- (a) 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 31.07.1996 after having been found fit in all respects and was promoted to the rank of Lt. Col. on 03.07.2008 before the implementation of the recommendations of the 6<sup>th</sup> CPC. The implementation instructions of the 6<sup>th</sup> CPC were issued vide SAI/02/S/2008 in the case of officers. The applicant submits that because of the wrong fixation of pay, his pay was fixed much lower than his juniors on account of the fact that the applicant had not exercised the option of how his pay was to be fixed on promotion during the transition period of 01.01.2006 to 11.10.2008 within the stipulated time and many officers including the applicant were denied the benefits of fixation of the pay in the 6<sup>th</sup> CPC from the date of promotion to the rank of Lt. Col. on 03.07.2008 which was more beneficial instead of

w.e.f. 01.01.2006 from the date of implementation of the recommendations of the 6<sup>th</sup> CPC and thus his pay was fixed much lesser on promotion to the rank of Lt Col. on 03.07.2008 as compared to his batch-mates/juniors and such pay disparity continued due to initial wrong fixation of pay during the transition period of the 6<sup>th</sup> CPC in the rank Lt Col. The applicant further submits that despite the repeated requests, the respondents did not accept his request for fixation of pay in a manner that is more beneficial only on the ground of not exercising the option within the stipulated period of time i.e. 30.06.2011.

3. 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.**

4. 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."***

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 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."*

6. In the light of the above considerations, the OA 1643/2025 is allowed and direct the respondents to:

(a) Review the pay fixation of the applicant on his promotion to the rank of Lt Col. on 03.07.2008 in the 6<sup>th</sup> CPC and 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 7<sup>th</sup> 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)]**

**[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)]**

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