

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

OA 2119/2022

Ex PO LOG (MAT) Pradeep	Applicant
Versus		
Union of India and Ors.	Respondents

For Applicant	:	Mr. Ved Prakash, Advocate
For Respondents	:	Mr. V. Pattabhi Ram, Advocate

CORAM

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

ORDER

Being aggrieved by the incorrect fixation of his pay in the 6th Central Pay Commission (CPC) resulting in continuous financial loss and disadvantage, the applicant has filed this OA under Section 14 of the Armed Forces Tribunal Act, 2007 claiming the following reliefs:

- “(a) Direct the respondents to re-fix (step up) the applicant's basic pay from Rs.39200/- to Rs.40400/- and revise his service pension accordingly.*
- (b) Direct the respondent to pay arrears of pay and service pension with 12% interest P.A.*
- (c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the applicant in favour of the applicant and against the respondents.”*

2. The applicant was enrolled in the Indian Navy on 2nd July, 2007 and discharged from service

on 31st January, 2022. On 12th April, 2008, when the recommendations of 6th CPC were yet to be implemented, the applicant was promoted to the rank of Store Assistant-II (SA-II). The implementation instructions for 6th CPC were issued vide SNI 1/S/08 dated 18th October, 2008. However, because of the wrong fixation, 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 1st January, 2006 to 18th October.2008 within the stipulated time.

3. The respondents have filed a short affidavit indicating the manner in which the pay of the applicant was fixed both under 6th CPC and 7th CPC and have conveyed that in view of the IHQ MoD (N)/DPA letter No.PA/6311/01 dated the most beneficial Option II is not now available to the applicant.

4. In reply learned counsel for the applicant has fervently contended that from the averments made by the respondents in the short affidavit it is evident that the pay of the applicant was fixed as per Option I and not Option II which was more beneficial to the applicant.

5. The cases pertaining to incorrect pay fixation under 6th CPC in respect of Officers/JCOs/Ors, merely on the ground of option not being exercised within the stipulated time or

applicant's not exercising the option at all, have been examined in detail by this Tribunal and in view of the orders passed in all such cases the applicant's pay is to be re-fixed with the most beneficial option as stipulated in Para 12 of the SNI 1/S/08 dated 18th October.2008. The matter of incorrect pay-fixation and providing the most beneficial option in the case of JCOs/ORs has also 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 3rd September, 2021).

6. Similarly, in the matter of incorrect pay fixation under the 7th CPC, the issue has been examined thread bare in the case of Sub Ramjeevan Kumar Singh Vs. Union of India (OA No.2000/2021 decided on 27.09.2021). Relevant paras whereof are extracted below:

"12. Notwithstanding the absence of the option clause in 7th 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 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.

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 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."

7. In respect of officers, the cases pertaining to pay anomaly have also been examined 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 5th August, 2022. In that case, the CGDA/CDA(O) has been directed to issue necessary instructions to review pay-fixation of all officers of all the three Services, whose pay has been fixed on 1st January, 2006 in 6th CPC and provide them the most beneficial option. Relevant paras are quoted 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."

8. In the light of the above considerations, the OA is allowed and the respondents are directed to:

(a) Review the pay fixed of the applicant on his promotion to the rank of Store Assistant-II (SA-II) on 12th April, 2008 in the 6th CPC and after due verification re-fix his pay in a manner that is most beneficial to him.

(b) Thereafter, re-fix the applicant's pay on transition into 7th CPC and also subsequent promotion(s) accordingly.

(c) To revise the applicant's pension and issue a corrigendum PPO accordingly.

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

9. No order as to costs.

Pronounced on 23.04.2025

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)

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