

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

104.

OA No.2360/2023

JC 380949 Sub P Ravi (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate
For Respondents : Mr Rajan Khosla, Advocate
Capt Abhishek Kumar, OIC Legal

CORAM

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

ORDER
19.11.2025

The applicant JC 380949 Sub P Ravi (Retd) vide the
present OA filed under Section 14 of the Armed Forces
Tribunal Act, 2007 makes the following prayers:

*"(A) Direct the respondents to fix the applicant pay in a manner that is most beneficial to the applicant during migration of Pay in 7th CPC regime and thereafter re-fix pay in subsequent years as per the existing entitlement so that not drawing less pay/pension than his juniors in terms of Law upheld in Sub Mahendra Lal Shrivastava and Wg Cdr Bharat Malik (supra) referred in the judgments placed at Annex A5 and A4. And/or
(B) Issue/pass an order or direction of appropriate nature to re-fix the basis pay with effect from 01 Jan 2016 by migrating*

his pay from date of promotion i.e. WEF 01 Jun 2016 so as to enable him not to draw less pay than his course mates or juniors and subsequent revision in a most beneficial manner while ensuring that he is not drawing less pay than his juniors with applicable interest in light of the law settled and earlier upheld vide judgment placed at Annex A5 and 4; and/or

(C) Pass an order for incurring costs/expenditure in any form on account of this application are to be borne solely by the respondents which would act as a deterrent because despite several verdicts by Hon'ble Apex Court/AFTs against the similar recommendations/provisions pertaining to fixation of pay during the regime of 6-7th CPC; and/or any other suitable order as deemed fit based on the merit of the case may kindly be passed."

2. The applicant after having been found fit was enrolled in the Indian Army on 19.04.1995 and was promoted to the rank of Naik on 01.04.2006 during the transition period of the 6th CPC. The applicant submits that he was again promoted from time to time and finally to the rank of Sub on 01.06.2016 and retired from service on completion of service of 28 years & 12 days on 30.04.2023 with basic pay at Rs.55,200/- per month which is less than to his junior/course mates and moreover his basic pay has been reduced from Rs.56,900/- per month and an

amount of Rs.3,89,653/- was recovered without any reason or prior intimation during the issuance of the FSA, a copy of which is placed at Annexure A-1. The applicant has cited the instances of his juniors/course-mates who are drawing more basic pay as per FSA and the PPO despite serving in the same trade rank and nature of works. The applicant further submits that his basic pay was not revised as per the MACP even after granting him wherein the period of MACP has been reduced from 10 years to 08 years with 03 scales of financial up-gradation instead of 02 scale prior to January, 2006 and his pay anomaly has not been redressed despite visiting the offices of the respondents and in order to get his grievance resolved, he filed an appeal-cum-notice for stepping up of his pay on 09.06.2023. The applicant further submits that the Government of India implemented the recommendations of the 7th CPC in the year 2018 to be effective w.e.f. 01.01.2016,

the fixation of his basic pay was done retrospectively while the respondents are duty bound to give most beneficial option but the same was not done and thus his basic pay remain less in comparison to his juniors and course-mates despite promoted on 01.06.2016 as Sub. It is the case of the applicant that his case is covered in view of a catena of orders passed by the Armed Forces Tribunal wherein it was held *"Review the pay fixed of the applicant and after due verification re-fix their pay under 6th CPC in a manner that is most beneficial and thereafter re-fix their pay in all subsequent ranks and on transition to the 7th CPC where applicable, and also ensure that they are not drawing less pay than their juniors"*. The applicant further submits that the matter could not be resolved despite repeated correspondence by his Unit thus ignoring the view expressed by the Hon'ble Apex Court and the Armed Forces Tribunal in similar cases and thus denial of similar benefits to the applicant not only deprives

his fundamental right but also is violative of the principle of natural justice enshrined under the Constitution of India.

3. The applicant has relied upon the order of the Armed Forces Tribunal(PB) dated 03.09.2021 passed in the case of *Sub M .L. Shrivastava & Ors. Vs Union of India & Ors.* in OA 1182/2018 and a catena of other orders of the Armed Forces Tribunal.

4. The Hon'ble Supreme Court passed vide dated 17.12.1996 in the case of *Union of India & Ors Vs P Jagdish and Ors (SLP(C) No. 020470/1995* has observed that the principle of stepping up prevents violation of the principle of "equal pay for equal work". Applying the same principle of law here, a service personnel in the same rank cannot be allowed to draw a salary higher than his batchmate because that would be against the ethos of Article 39(d) of the Constitution which envisages

the principle of "equal pay for equal work". Hence granting of stepping up is the only way out to remove the said anomaly, which results in a service personnel drawing a higher salary in the same rank than his batchmate. The only way to remove this anomaly is the stepping up of the salary of aggrieved personnel at par with other service personnel in the same rank. The rules and provisions which allow the said anomaly to exist and prohibit the stepping up are violative of the principle of natural justice and equity; and contrary to Article 39(d) of the Constitution which envisages "equal pay for equal work" and contrary to the principle of law laid down by the Apex Court in its pronouncements.

5. The applicant was denied the most beneficial option for not exercising the option within the stipulated period of time as per the averments made in Para 4, 5 and 6 of the

counter affidavit dated 27.05.2025 filed on behalf of the respondents which are to the effect:

"4. That many JCOs/OR promoted/financially upgraded during the above period exercised incorrect/delayed/no option. Such persons started drawing lesser pay than their course-mates/juniors who were promoted on the same date or subsequently and opted for the most beneficial option. PAOs(OR) had expressed inability to step up of affected persons in such cases citing incorrect/delayed/no option exercised by the individuals.

5. That the Ministry of Defence vide letter No. 1(4)/2021/D(Pay/Services) dated 23 May 2023 (photocopy of the said letter No.1(4)/2021/D(Pay/Services) dated 23 May 2023 is annexed herewith and marked as Annexure R-3) had granted another window of opportunity to exercise fresh option by persons who were promoted/financially upgraded between 01 January, 2016 to 03 May 2017. Such persons would submit fresh option to PAO(OR) for switch over to 7th CPC scales from date of promotion/financial up-gradation or 01 January, 2016, whichever is beneficial. Option should have been exercised within 180 days from 23 May 2023.

6. That accordingly, fresh option was asked from the applicant as he was promoted to the rank of Subedar on 01 June 2016. Further, LPC-cum-Data Sheet has been processed with PAO (OR) Corps of Signals vide Signals Records Letter No. 5104/SP/NER/Rev/DNI/OPTCPC/COURT CASE dated 18 October, 2023 (Photocopy of the said Signals Records letter No. 5104 /SP/NER/ Rev/DNI/OPTCPC/COURT CASES dated 18

October, 2023 is annexed herewith and marked as Annexure R-4 for authentication. ON receipt of authentication from PAO(OR) Corps of Signals, the case will be further processed with PCDA(P) Prayagraj for issues of Corrigendum PPO which would take considerable time due to involvement of various agencies."

6. 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 14 of the SAI 1/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.

7. 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 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."

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 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."*

9. In the light of the above considerations, the OA 2360/2023 is allowed and the respondents are directed to:

- (a) Review the pay fixed of the applicant under the 6th CPC after due verification in a manner that is most beneficial to the applicant while ensuring that the applicant is not drawing less pay than his course-mate/junior.
- (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 including the refund of the deducted amount from his salary/pension, if any.
9. No order as to costs.

(JUSTICE ANU MALHOTRA)
MEMBER(J)

(LT GEN C P MOHANTY)
MEMBER (A)

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