

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

OA No.3511/2024 with MA 2257/2025

725667-A WO(Retd) Jaswant Singh Rana Applicant
Versus

Union of India & Ors. Respondents

For Applicant : Mr. Vikash Kumar, Advocate
For Respondents : Mr. Shyam Narayanm, Advocate
Sgt Pradeep Sharma, OIC Legal Cell

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER(J)
HON'BLE REAR ADMIRAL DHIREN VIG MEMBER (A)

ORDER

The applicant 725667-A WO(Retd) Jaswant Singh Rana
vide the present OA filed under Section 14 of the Armed
Forces Tribunal Act, 2007 makes the following prayers:

- (a) *"To set aside and quash the impugned letter attached as Annexure A-1 passed by the respondents.*
- (b) *To direct the respondents to review the pay fixed for the applicant under the 6th CPC and after due verification re-fix his pay in a manner that is most beneficial to him.*
- (c) *To direct the respondent to fix the basic pay of the applicant at par with his junior.*
- (d) *To direct the respondents to fix the basic pay of the applicant @ Rs.62,200/- for the purpose of pensionary benefits and issue fresh/corrigendum PPO to the applicant.*

- (e) *To pass any other order or direction in favour of applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice."*

2. The applicant after having been found fit was enrolled in the Indian Air Force on 06.07.1987 and was discharged in the rank of Warrant Officer(WO) on 29.02.2024. The grievances of the applicant are that despite making representation dated 06.04.2024 to the respondents for fixing of his pay in a more beneficial manner as he is getting less pay in comparison to his batchmate was turned by the respondents vide their letter No. AIR HQ/99798/30/DAV/A&A/CORRES/CELL-07 dated 28.05.2024 stating to the effect:

"This Directorate has made an all out effort to reach out to Air Veterans to exercise this option within the slated timelines as per the guidelines issued by Dte of Accts for NE cases, the individual has the option to choose pay fixation for which he is to render a signed option form, then the same is to be actioned by DAV and submitted for audit verification.

Further, it is intimated that as the last date for submission of DNI option form has already been lapsed long time ago, it is not feasible for this Directorate to revise your basic pay as per DNI at this belated stage."

3. The applicant further submits that the difference of the basic pay happened during the course of promotion from the rank of JWO to Warrant Officer(WO) on 01.09.2017 as he could not opt the fixation of his pay from the date of next increment(DNI) wef 01.09.2017 as he was posted at Embarkation HQ Mumbai which was a Non-AFNET unit during his promotion period from JWO to WO and this resulted in a lower basic pay as compared to similarly placed Airmen as the financially beneficial option of fixation of pay from the Date of Next Increment(DNI) was not chosen and thus he is suffering a recurring monthly loss of approximately Rs.1,800/-pm. The applicant further submits that his basic pay was fixed much lesser than that of other Airmen of the same group/trade and entry made of the applicant and his pay was fixed much lesser only because the applicant has not exercised the option for fixation of his pay from the Date of Next

Increment(DNI) which was more beneficial to him in a time-bound manner.

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 judgment dated 17.12.1996 in the case of *Union of India & Ors Vs P Jagdish and Ors*(SLP(C) No.020470/1995 wherein also similarly circumstanced applicant (s) have been granted the stepping of pay at par to his junior.

5. *In P. Jagdish* case(supra), the Hon'ble Supreme Court 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.

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 3511/2024 is allowed and the respondents are directed to:

(a) Review the pay fixed of the applicant 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 coursemate/junior.

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

10. No order as to costs.

11. Pending MAs, if any, are disposed of accordingly.

Pronounced in the Open Court on this 4th day of September, 2025.

(JUSTICE ANU MALHOTRA)
MEMBER(J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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