

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

5.

OA 3839/2025

IC-81504L Maj Abhishek Kumar Sinha Applicant
Versus

Union of India & Ors. Respondents

For Applicant : Mr. S.S. Pandey, Advocate

For Respondents : Maj Abhishek Sharma, OIC Legal

CORAM

HON'BLE JUSTICE ANU MALHOTRA, MEMBER(J)

HON'BLE LT GEN C P MOHANTY, MEMBER (A)

ORDER

03.12.2025

The applicant IC-81504L Maj Abhishek Kumar Sinha vide the present OA filed under Section 14 of the Armed Forces Tribunal Act, 2007 makes the following prayers:

- (a) *"Call for the records based on which the respondents most discriminately have fixed the pay of the applicant in the rank of Maj. w.e.f. 11.06.2022 instead of from date of next increment i.e. from 01.07.2022, as well as the records based on which the respondents issued the impugned orders thereafter quash all such orders.*
- (b) *Direct the respondents to fix the pay from the date of next increment from 01.07.2022 consequent to grant of promotion to the rank of Maj on 11.06.2022 instead of fixation of pay and allowance from the date of promotion by quashing the order of such fixation and revise his pay*

accordingly by granting two increment(Promotion increment+ Annual Increment) on 01.07.2022 and annual increment on 01.01.2023 to the applicant as per Addl Dte Gen Personnel Services letter dated 23.03.2021 as granted to his batch mates and the juniors.

- (c) Direct the respondents to pay the arrears of the difference of pay accrued upon grant of two increment from 01.07.2022 after adjusting the payments already made alongwith interest @12% from the date it was payable till the date payment is made.*
- (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 11.06.2016 after having been found fit in all respects and was promoted to the rank of Major on 11.06.2022. The applicant submits that the Pay Rule-2017 was promulgated w.e.f. 01.01.2016 and that the Advisory No.11/2021 dated 23.03.2021 was issued by the Addl Dte Gen Personnel Services notifying all Commands that as per the 7th CPC there are two dates for increment on 1st Jan and 1st July of every year depending on the date of appointment or promotion or financial up-gradation. The implications of the said Advisory are detailed

in the letter No.C/70 99/Policy/SAPCS/2021 dated 23.03.2021

to the effect:

"3. The implication of DMA letter above are explained as under:

(a) When Date of Increment due on 01 Jul Every Year**

Ser No.	Personnel promoted or Financially Upgraded	Date of Incre as per previous rank/Post	Remarks
(a)	01 Jan	01 Jul	If opted for DNI(date of next increment) then, two incr(annual+promotion) will be given in Jul same yr and one incr(annual incr) will be given on 01 Jan next yr#
(b)	02 Jan to 30 Jun	01 Jul	-do-
(c)	01 Jul	01 Jul	-do-
(d)	02 Jul to 31 Dec	01 Jul	If DNI option ex than two incr(annual+promotion) in Jul next yr and one annual incr on 01 Jan next to next yr#
#The next increment thereafter is to accrue only after completion of one year. **Pl. check previous record/previous pay slips to confirm			

(b) When the date of Increment due on 01 Jan Every year**

Ser No.	Personnel promoted or Financially Upgraded	Date of Incre as per previous rank/Post	Remarks
(a)	01 Jan	01 Jan	If opted for DNI(date of next increment) then, two incr(annual+promotion) will be given in Jan same yr and one incr(annual incr) will be given on 01 Jul same year #
(b)	02 Jan to 30 Jun	01 Jan	If opted for DNI(date of next increment) then, two incr(annual+promotion) will be given in Jan next yr and one incr(annual incr) will be given on 01 Jul next year#
(c)	01 Jul	01 Jan	-do-
(d)	02 Jul to 31 Dec	01 Jan	-do-
#The next increment thereafter is to accrue only after completion of one year. **Pl. check previous record/previous pay slips to confirm			

"

3. The applicant submits that he was promoted to the rank of Major on 11.06.2022 for which the Part II Order was published on 11.07.2022. The applicant submits he raised his grievances with PCDA(O), Pune in relation to discrepancy in the fixation of pay as he is getting basic pay of Rs.73,600/-whereas his junior/course-mates are getting basic pay of Rs.75,600/- and thus requested the respondents to get the anomaly rectified. However, the respondents replied that his basic pay was fixed from the date of promotion as DNI option form was not received which should have been forwarded within three months from the date of Publication of Part II Order and at this belated stage, pay cannot be revised. The applicant submits that despite approaching the concerned authorities of the respondents on 16.03.2023, 17.03.2023 and 04.10.2025, all have expressed their inability to provide relief in the matter in the absence of order from the Armed Forces Tribunal and vide impugned order dated 17.03.2023 placed on record as Annexure A-1, it was stated to the effect:

Reply: Sir, it is intimated that the your pay on promotion to the rank of Major wef 11.6.2022 was fixed from the date of promotion as DNI option form was not received which should be forwarded within three months from the date of publication of Part II Order. Hence, at this belated stage your pay cannot be revised. If any Government orders received for extension of

DNI option action will be taken only on receipt of your DNI option. Regards AO/SAO: ARUNABHA BANDYODHYAY(LW)"

Reply date: 17 Mar 2023 12:00:00

4. *Inter alia*, it has been stated on behalf of the applicant that the matter is no more *res integra* in view of the order dated 21.11.2023 of this Tribunal in **OA No. 163 of 2022 in the case of Nb Sub/M Tech(B Veh) Brijesh Singh Vs Union of India & Ors.**

5. A bare perusal of the impugned order dated 17.03.2023 already adverted to hereinabove indicates that the respondents have not refuted the contention of the applicant that he was entitled to the grant of next increment from 01.07.2022 after his promotion to the rank of Maj. on 11.06.2022. As observed vide order dated 21.11.2023 in **Nb Sub/M.Tech(B Veh) Brijesh Singh vs Union of India & Ors.** in OA 163/2022 vide Paras 5, 6 and 7 thereof which read as under:

"5. MoD vide its Office Memorandum dated 22.03.2018 (Annexure A-7) had intimated that anyone promoted may opt to have his/her pay fixed from the date of his/her next increment. The relevant extracts are reproduced below:

3. *After due consideration in this matter, the following is decided as follows:*

(i) *Defence Personnel, who is promoted or upgraded from one rank to another, subject to fulfilment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him/her. Such, Defence Personnel may opt to have his/her pay fixed from the Date of his/her Next Increment (either 1st July or 1st January, as the case may be)*

accruing in the Level of the post from which he/she is promoted, except in cases of appointment on deputation basis to an ex-cadre post or on direct recruitment basis or appointment/promotion on ad-hoc basis, as applicable in the Defence Services.

(ii) In case, consequent upon his/her promotion, the Defence Personnel opts to have his/her pay fixed from the date his/her next increment (either 1st July or 1st January, as the case may be) in the Level of the post from which Defence Personnel is promoted, then, from the date of promotion till his/her DNI, the Defence Personnel shall be placed at the next higher cell in the level to the post to which he/she promoted.

Illustration:

1.	Level in the revised pay structure: Level 4	Pay Band	5200 – 20200		
2.	Basic Pay in the revised pay structure: 29600	Grade Pay	2000	2400	2800
3.	Granted promotion in Level 5.	Levels	3	4	5
		1	21700	25500	29200
		2	22400	26300	30100
4.	Pay in the upgraded Level i.e., Level 5: 30100 (next higher to 29600 in Level 5)	3	23100	27100	31000
		4	23800	27900	31900
5.	Pay from the date of promotion till DNI: 30100	5	24500	28700	32900
		6	25200	29600	33900
		7	26000	30500	34900
		8	26800	31400	35900
		9	27600	32300	37000
		10	28400	33300	38100

(iii) Subsequently, on DNI in the level of the post to which Defence Personnel is promoted, his/her Pay will be re-fixed and two increments (one accrued on account of annual increment and the second accrued on account of promotion) may be granted in the Level from which the Defence Personnel is promoted and he/she shall be placed, at a Cell equal to the figure so arrived, in the Level of the post to which he/she is promoted; and if no such Cell is available in the Level to which he/she is promoted, he/she shall be placed at the next higher Cell in that Level.

Illustration:

1.	Level in the revised pay structure: Level 4	Pay Band	5200 – 20200		
2.	Basic Pay in the revised pay structure: 29600	Grade Pay	2000	2400	2800
3.	Granted promotion in Level 5.	Levels	3	4	5
		1	21700	25500	29200
		2	22400	26300	30100
4.	Pay in the upgraded Level i.e., Level 5: 30100 (next higher to 29600 in Level 5)	3	23100	27100	31000
		4	23800	27900	31900
		5	24500	28700	32900
5.	Re-fixation on DNI: Pay after giving two increment in Level 4: 31400	6	25200	29600	33900
		7	26000	30500	34900
		8	26800	31400	35900
		9	27600	32300	37000
		10	28400	33300	38100
6.	Pay in the				

upgraded Level i.e. Level 5 : 31900 (either equal to or next higher to 31400 in Level 5)				
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6. The above details were further clarified and promulgated to the subordinate formations vide Army HQ letter dated 23.03.2021 – “Ex of DNI Option on Promotion” (Annexure A-6). Relevant options are extracted below:

2. As per 7th CPC, there are two dates for increment on 01 Jan and 01 Jul of every year, depending on the date of his appointment or promotion or financial up gradation.

3. The implication of DMA letter above are explained as under:-

(a) When Date of Increment due on 01 Jul Every Year**.

Ser No	Personnel Promoted or Financially Upgraded	Date of Incr as per previous rank/Post	Remarks
(a)	01 Jan	01 Jul	If opted for DNI (date of next increment) then, two incr (annual + promotion) will be given in Jul same yr and one Incr (annual incr) will be given on 01 Jan next yr #
(b)	02 Jan to 30 Jun	01 Jul	-do-
(c)	01 Jul	01 Jul	-do-
(d)	02 Jul to 31 Dec	01 Jul	If DNI option ex than two incr (annual + promotion) in Jul next yr and one annual incr on 01 Jan next to next yr #
# The next increment thereafter is to accrue only after completion of one year.			
** Pl check previous record/ previous pay slips to confirm.			

(b) When Date of Increment due on 01 Jan Every Year**.

Ser No	Personnel Promoted or Financially Upgraded	Date of Incr as per previous rank/Post	Remarks
(a)	01 Jan	01 Jan	If opted for DNI (date of next increment) then, two incr (annual + promotion) will be given in Jul <u>same yr</u> and one Incr (annual incr) will be given on 01 Jan next yr #
(b)	02 Jan to 30 Jun	01 Jan	If opted for DNI (date of next increment) then, two incr (annual + promotion) will be given in Jan <u>next yr</u> and one incr (annual incr) will be given on 01 Jul <u>next year</u> #
(c)	01 Jul	01 Jan	-do-
(d)	02 Jul to 31 Dec	01 Jan	-do-
# The next increment thereafter is to accrue only after completion of one year.			
** Pl check previous record/ previous pay slips to confirm.			

7. It is evident from the details in the letter dated 24.09.2018 (Annexure A-1) that the applicant's

date of last increment in the 6th CPC was on 01.07.2015. Thus, as per Para 3 (a and b) of Army HQ letter dated 23.03.2021 (Annexure A-6), since the applicant was promoted on 01.05.2016 and that is between 02nd Jan and 30th Jun and as opted for fixing his pay from the next increments, he is entitled for two increments; one for his promotion and one his annual increment, Jul 2016 and his next annual increment would be due on 01.01.2018.”,-

as the applicant was promoted on 11.06.2022 and opted for fixation of his pay from the next of increment, then he is entitled for two increments i.e. the annual increment and the second accrued on grant of promotion on 11.06.2022 with his next annual increment being due on 01.01.2023.

6. The applicant further submits that the denial by the respondents of the revised pay scale to the applicant has created a situation wherein the applicant is being granted basic pay lesser than his batch mates as well as his juniors on the specious plea of putting the onus on the applicant for not exercising the option within the stipulated time of three months from the date of publication of the Part II Order published on 11.07.2022, despite the obligation on their part to fix the pay of the applicant in a manner which is more beneficial to him are highly illegal, arbitrary and discriminatory as well as against the mandate of equality and equal pay for equal work and also contrary to the

163 of 2022 titled *Nb Sub/M.Tech(B Veh) Brijesh Singh vs Union of India & Ors.*


7. The applicant reiterates that the actions of the respondents of denying him, the benefit of fixation of pay in the 7th CPC from the date of next increment (DNI) on grant of promotion/financial up-gradation i.e. on 11.06.2022(two increment(Annual Increment and Promotion Increment) and instead granting only promotion increment on 11.06.2022 has resulted in a situation of the applicant getting less pay than his junior on the sole basis of applicant having not exercised the option within the stipulated period of time.

8. 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 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.

9. In the light of the above considerations, the OA 3839/2025 is thus disposed of with directions to respondents to the effect:

- a) To fix the pay of the applicant from the date of his next increment from 01.07.2022 consequent to the grant of promotion to the rank of Maj. on 11.06.2022 in the 7th CPC.
- b) On re-fixing his pay in the 7th CPC on 01.07.2022 the applicant be granted two increments' one for promotion and the other for annual increment.
- c) His subsequent pay be recalculated accordingly.


(JUSTICE ANU MALHOTRA)
MEMBER(J)


(LT GEN C P MOHANTY)
MEMBER (A)

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