

COURT No.2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

12.

OA 3952/2025

Sub (Hony Sub Maj) Karan Singh (Retd)..... Applicant  
VERSUS  
Union of India and Ors. .... Respondents

For Applicant : Mr. Rajeev Kumar &  
Mr. Tatsat Shukla, Advocates  
For Respondents: Mr. Virendra Singh, Advocate

CORAM

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

ORDER  
15.12.2025

The applicant vide the present OA has made the following prayers:-

*"(a) To direct the Respondents to rectify Basic pay fixation anomaly in salary of the applicant by re-fixing his basic pay as per the most beneficial option to applicant on implementation of 6th CPC and subsequent, on the principles affirmed by Hon'ble Tribunal in O.A No. 1182/2018, Sub Mahendra Lal Shrivastava Vs Union of India & Ors.*

*(b) To direct the respondents to make payment of arrears of salary accrue to him on re-fixation of his basic pay, in accordance with most beneficial option, on the principles affirmed by Hon'ble Tribunal in O.A No. 1182/2018, Sub Mahendra Lal Shrivastava Vs Union of India & Ors.*

*(c) To direct the respondents to pay interest @12% per annum on the arrears accrue to the applicant on arrears of payments on Re-fixation of basic pay.*

*(d) 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 was enrolled in the Army Medical Corps(AMC) of the Indian Army in the rank of Sepoy on 31.12.1994 and after completing a three-year Diploma in General Nursing during the transition period of the 6<sup>th</sup> CPC i.e. 01.01.2006 to 11.10.2008 was promoted to the rank of Nb Sub(Nursing Technician) on 02.02.2008. The applicant submits that he was discharged from service on completion of the terms and conditions of enrolment on 31.12.2022 without the grant of the new benefit under the 6<sup>th</sup> CPC *qua* his pay on promotion to the rank of Nb Sub which was not fixed in accordance with the most beneficial option mandated under the

SAI Instructions. The grievance of the applicant is that his basic pay was not fixed as per the beneficial option on promotion to the rank of Nb Sub on 02.02.2008 in the transition period of the 6<sup>th</sup> CPC. The applicant submits that he submitted a query to the Record Office seeking re-fixation of his pay under the most beneficial option as per the 6<sup>th</sup> CPC guidelines. The response received from the SRO for OIC Records vide letter no. 501032/Pen/SP Rev dated 08.08.2025 reads to the effect:-

**" PAY FIXATION ON TRANSITION TO 6<sup>TH</sup>**

**CPC SCALES FROM DATE OF PROMOTION**

1. Ref your personal email dated 07 Aug 2025.  
2. It is intimated that the subject case file of JCOs/OR of AMC(incl JC-696695A Sub Karan Singh(Retd) was fwd to IHQ of MoD(Army) DGMS-3D(Legal) vide our letter No. 501032/Pen/SP Rev dt 19 May 2024 for revision of pay fixation on transition to 6<sup>th</sup> CPC scales for want of charged expdr sanction. The subject case file has been returned vide IHQ of MoD(Army) letter No B/74303/PC/DGMS-3D(Legal) dt 04 Jul 2024 with the fwg directions:-

***"PIFA is not agree to concur the instant AFT order(in-rem), therefore case may be treated as closed."***

3. This is for your information please."

3. Notice of the OA is issued and accepted on behalf of the respondents. Learned counsel for the respondents in reply to a

specific Court query affirms that the document placed on record as Annexure A-1 is the impugned order. It is essential to observe that vide order dated 10.12.2014 in OA 113/2014 and several other connected matters in the lead case of *Sub Chittar Singh vs. UOI & ors.* , in relation to the denial of the benefit of revision of pay fixation available to the applicant's therein in view of the policy decision dated 11.10.2008 SAI No. 1/S/2008 dated 02.08.2008 and the non-exercise of the most beneficial option, the respondents therein were directed to accept the most beneficial option that could be given to the applicant's therein for the fixation of the pay and benefits, the said order was adhered to by this Tribunal in the case of *Sub Mahendra Lal Shrivastava(Retd) vs. UOI & Ors.* vide orders dated 03.09.2021 in OA 1182/2018 and two other connected OAs i.e. OA 1314/2018 and OA 892/2019 titled *Sub Sattaru Lakshmana Rao vs. UOI & Ors* and *Sub(TIFC) Jaya Prakash vs. UOI & Ors.* Vide Paras-24 to 34 of the said order, it was observed to the effect:-

*"24. Having heard all parties at length, the main issue before us is whether the respective PAO(OR)s who are the Respondent office*



responsible for all matters of pay and allowances of personnel below officers' rank are justified in arbitrarily fixing the pay as on 01.01.2006, without examining the most beneficial option for each individual while fixing the pay; irrespective of whether the option was exercised or not exercised, or was exercised late.

25. We have examined all the policies issued and placed on record, pertaining to the implementation of 6<sup>th</sup> CPC from 01.01.2006. In pursuance of recommendations of 6<sup>th</sup> CPC and the Govt decisions thereon, the existing scales of pay of JCOs, including Honorary Commissioned Officers, NCOs, OR of the Army, DSC, APS and TA when embodied, was to be revised and pay fixed in the revised pay structure in accordance with the provisions of SAI No 1/S/2008 dated 11.10.2008, with effect from 01.01.2006. The provisions of this SAI were to apply to all the above categories of personnel who were on the effective strength of the Army, DSC, APS and TA, if embodied, as on 01st day of January 2006 or who joined the service thereafter. The provisions of Pay and Allowances Regulations for JCOs and OR, 1979 as amended from time to time and Government orders which are not affected by the provisions of this SAI were to remain unchanged. Relevant extracts of SAI 2/S/2008 are reproduced below.

"7. Drawal of Pay in the Revised Pay Structure. Save as otherwise provided in this instruction, a PBOR shall draw pay in the revised pay structure applicable to the rank which he holding or to the post to which he is appointed, provided that:-

(a) PBOR may elect to continue to draw pay in the existing scale until the date on which he earns his next or any subsequent increment in the existing scale or until he vacates his post or ceases to draw pay in that scale.

(b) In cases where a PBOR has been placed in a higher pay scale between 1st date of January

2006 and the date of notification of this instruction on account of promotion, upgradation of pay scale etc, the individual may elect to switch over to the revised pay structure from the date of such promotion, upgradation, etc.

*Explanation 1 - The option to retain the existing scale under the provisions to this rule shall be admissible only in respect of one existing scale.*

*Explanation 2 - The aforesaid option shall not be admissible to any PBOR appointed to a post on or after the 1st day of January 2006, whether for the first time in Government service or by transfer from another post and he shall be allowed pay only in the revised pay structure.*

**8. Exercise of Option.**

*(a) The option under the provisions to para 7 above shall be exercised in writing in the form given at Appendix 'D' to this SAI, so as to reach the concerned Pay Accounts Office, within three months of the date of publication of this instruction or where an existing scale has been revised by any order made subsequent to that date within three months of the date of such order, Provided that:-*

*(i) In the case of a PBOR who is, on the date of such publication or as the case may be, date of such order, out of India on leave or deputation or foreign service or active service, the said option shall be exercised in writing so as to reach the PAO (OR) within three months of the date of resuming his duties in India; and*

*(ii) Where a PBOR is under suspension on the 1st day of January, 2006, the option may be exercised within three months of the date of his return to his duty if that date is later than the date prescribed in this sub rule.*

*(b) The option shall be intimated by the PBOR to the concerned PAO, through his unit.*

*(c) If the intimation regarding option is not received within the time mentioned in this SAI, the PBOR shall be deemed to have elected to be*

*governed by the revised pay structure with effect from 1st day of January 2006.*

*(d)The option once exercised shall be final.*

*Note 1 - Persons whose services were terminated on or after the 1st day of January, 2006 and who could not exercise the option within the prescribed time limit, on account of discharge on the expiry of sanction posts, resignation, dismissal or discharge from service or disciplinary grounds, are entitled to the benefits of this rule.*

*Note 2 - Persons who have died on or after 1st day of January, 2006 and could not exercise the option within the prescribed time limit are deemed to have opted for the revised structure on and from 01 January 2006 or such later date as is most beneficial to their dependents, if the revised pay structure is more favourable and in such cases, necessary action for payment of arrears shall be taken by concerned Pay Accounts Office/Depot Battalion/Records Office.*

*Note 3 - Persons who were on annual leave or any other leave on 1st day of January 2006 which entitled them to leave salary will be allowed the benefits of this rule.*

*14. Fixation of Pay On Promotion on or after 1st January 2006. In the case of promotion of a PBOR from one grade pay to another in the revised pay structure, the fixation of pay in the running pay band will be done as follows :-*

*(a) One increment equal to 3% of the sum of the pay in the pay band, existing grade pay and Group 'X' pay (if any) will be computed and rounded off to the next multiple of 10. This will be added to the existing pay in the pay band, The grade pay corresponding to the promoted rank, will thereafter be granted in addition to this pay in the pay band, In cases where promotion involves change in the pay band also, the same methodology will be followed.*

*However, If the pay in the pay band after adding the increment is less than the minimum of the*

*higher pay band to which promotion is taking place, pay in the pay band will be stepped up to such minimum.*

*(b) On promotion from one rank to another /financial upgradation under ACP, PBOR has an option to get his pay fixed in the higher post either from the date of his promotion or from the date of his next increment, viz 01 Jul of the year. The pay will be fixed in the following manner in the revised pay structure :-*

*(i) In case PBOR opts to get his pay fixed from his date of next increment then, on the date of promotion, pay in the pay band shall continue unchanged, but the grade pay of the higher rank will be granted. Further re-fixation will be done on the date of his next increment i.e. 01 Jul. On that day, he will be granted two increments; one annual increment and the second on account of promotion. While computing these two increments, Basic Pay prior to the date of promotion shall be taken into account. To Illustrate, if the Basic Pay prior to the date of promotion was Rs 100, first increment would be computed on Rs 100 and the second on Rs 103.*

*(ii) In case a PBOR opts to get his pay fixed in the higher grade from the date of his promotion he shall get his first increment in the higher grade on the next 01 Jul, if he was promoted between 02 Jul and 01 Jan. However, if he was promoted between 02 Jan and 30 Jun of a particular year, he shall get his next increment on 01 Jul of next year.*

*(iii) PBOR will have the option to be exercised within one month from the date of promotion to have his pay fixed from the date of such promotion or to have the pay fixed from the date of his next increment, Option once exercised shall be final. Form of option is given at Appendix 'D' to this SAI.*

(iv) If no option is exercised by the individual, PAO (OR) will regulate fixation on promotion ensuring that the more beneficial of the two options mentioned above is allowed to the PBOR. Pay on promotion may be fixed in the following manner if it is more beneficial :-

(aa) In case promoted between 02 Jan and 30 Jun, the fixation, on promotion will be done from the date of his next increment i.e 01 Jul.

(ab) In case promoted between 02 Jul and 01 Jan, the fixation on promotion will be done on the date of the promotion of the PBOR.

(v) As a one time measure, PBOR promoted on or after 01 Jan 2006 and before publication of this instruction, may exercise their option afresh within three months of the issue off this instruction. Form of option is given at Appendix 'D' to this SAI.

(c) In case of promotion to Hony Captain/Lieutenant rank on or after 1<sup>st</sup> January 2006, One additional increment will be given as in all other cases unless this amount is less than Rs 15600 i.e minimum of PB-3 then the pay will be stepped up to Rs 15600. In addition, Grade Pay and MSP as indicated in the table below para 13 will be admissible.

26. The Corrigendum to SAI 2/S/2008 dated 21/12/2010 which initially extended the date by which the option was to be exercised was extended to 31.03.2011 is reproduced below:-

26. The Corrigendum to SAI 2/S/2008 dated 21/12/2010 which initially extended the date by which the option was to be exercised was extended to 31.03.2011 is reproduced below:-

SPECIAL QARMY INSTRUCTION  
NO.1/S/08

No.1/S/2008      New Delhi, dated the 21st December, 2010

CORRIGENDUM

*The following amendment is made in the Para 8(d) to SAI 1/S/08 dated 11.10.2008.*

*Substitute Para 8(d) with the following:*

*(d)      The Junior Commissioned Officers (including Honorary Commissioned Officers), Non-Commissioned Officers and Other Ranks can revise their option upto 31 mar 2011 if the option is more beneficial to them.*

*F.No.1/30/2010/D(Pay/Services)  
Defence Finance Dy.No.469/AG/FA dated  
16.12.2010*

*(P.S. Walia)  
Under Secretary*

*27. MoD letter No Air HQ/99141/ 04/AFPCC/ 1697/D(Pay/ Services) dated 11.12.2013 on 'Extension of period of exercising of option for pay fixation in the revised pay structure' by which the period to exercise option was extended to 30.06.2011 is reproduced below:-*

*"Subject: Extension of period of exercising of option for pay fixation in the revised pay structure*

*Reference is made to Corrigendum of SAFI, SAI, SNI 1/S/08 dated vide MOD ID No.1/30/ 2010/D(Pay)/Services dated 21 Dec 2010.*

*2. Service HQ have represented that all affected service personnel could not exercise the option regarding re-fixation of pay in the revised pay structure in the stipulated time. i.e. 31 Mar, 2011,*

due to various reasons like remote locations on being leave and long courses etc.

3. As a one time measure, relaxation is here accorded in the provisions of the *ibid* Corrigendum to extend the time limit for submission of option by service personnel up to 30 June, 2011. The changes in the option submitted by Service Personnel up to 30 June, 2011, which are not processed by various agencies due to late submission will now be processed by re-fixing the pay of affected personnel as per revised option submitted by them up to 30 June, 2011. The relevant Pay & Allowances Regulations may be amended accordingly.

4. This issued with the approval of Ministry of Finance (Department of Expenditure) vide their ID No.192847/2013/E.III(A) dated 29.11.2013 and concurrence of MoD(Finance) vide their Dy No.546-PA dated 10.12.2013.

Yours faithfully  
(P.S. Walia)

Under Secretary to the Government of  
India

28. The letter intimating the extension of acceptance of option upto 30.06.2011 was intimated to the environment by AG's Branch vide its letter No B/32813/Misc Sub/AG/PS-3(a) dated 12.12.2013 and is reproduced below.

"EXTENSION OF PERIOD FOR EXERCISING  
OF OPTION FOR PAY FIXATION IN THE  
REVISED PAY STRUCTURE

1. Reference GoI letter No 1/30/2010/D (pay/Services) dt 21 Dec 2010.
2. A copy of GoI MoD order No Air HQ/99141/04/AFPCC/1697/D(Pay /Services) dated 11.12.2013 extending the acceptance of option exercised by Service Pers upto 30 Jun 2011

is forwarded herewith for info and wide circulation please.

(MS Kumar)

Dy Director, PS-3(a)

For Adjutant

General"

29. We also rely on the following Orders of the Principal Bench of this Tribunal issued in similar cases :

(i) Order dated 10.12.2014 in the case of Sub Chittar Singh and Ors Vs Union of India & Ors. in OA 113/2014.

(ii) Order dated 05.10.2017 in the case of Sub (TIFC) Dhyam Singh Vs Union of India & Ors. in OA 1095/2017.

(iii) Order dated 09.01.2019 in the case of Sub Nagender Singh Vs Union of India in OA 1198/2018.

30. In all the three cases, the applicants have been promoted to the next rank after 01.01.2006 and prior to the issue of SAI No 1/S/2008 dated 11.10.2008. Under normal circumstances, the applicants ought to have exercised their option for pay fixation as given in Para 8 and 14 (b) of the SAI. There is no dispute that the time laid down for exercising the option was initially three months from the date of issue of the SAI and that this was further extended to 31.03.2011 vide Corrigendum to SAI dated 21/12/2010. The period was further extended to 30.06.2011 vide MoD letter dated 11.12.2013. The letter dated 11.12.2013 was disseminated to the environment vide AG's Branch Letter dated 12.12.2013.

31. It is also undisputed that if the applicants by default, are to be in the new pay scale as fixed with effect from 01.01.2006, they would be in a disadvantageous position throughout their service tenure and on retirement/ transition to 7<sup>th</sup> CPC. Moreover, it is absolutely reasonable to assume that no sane person will knowingly put himself in a disadvantageous position in service



*and will refuse to accept a beneficial pay scale and opt for the new pay scale that is disadvantageous.*

*32. Category - A : No Option has been Exercised  
In OA 1314/2018, the applicant had not exercised any option for a variety of reasons. The relevant Army Instruction stated that if no option is exercised by the individual, PAO (OR) will regulate fixation on promotion ensuring that the more beneficial of the two options is allowed to the individual. Therefore, we do not find any force in the contention of the respondents that the applicant is not eligible for fixation of his pay from the date of his promotion since the option for switching over to 6<sup>th</sup> CPC was not exercised by him.*

*33. Category - B : Option has been Exercised After the Stipulated Period – In the other two cases i.e. OA 1182/2018 and OA 892/2019, the applicants have exercised their option, albeit later than the stipulated period of 30.06.2011, but certainly before the issue of the letter dated 11.12.2013. In one case, the option was initially accepted and subsequently rejected resulting in recovery of pay and allowances on retirement. It is clear that the respondents, through their communication dated 11.12.2013, conveyed that the date was extended up to 30.06.2011. Unfortunately, by such an order they clearly gave the benefit on one hand by extending the time for submitting the option, and took it away by the other hand; as nobody could have anticipated that in the year 2013, that the date would be extended only upto 30.06.2011 by an order passed in 2013. Moreover, since the letter dated 11.12.2013 itself was forwarded to the environment vide the letter dated 12.12.2013, nobody before 30.06.2011, could have known that the time limit for submitting the option was extended to 30.06.2011. When the time is extended and it is not brought to the notice of the beneficiaries then extension of time by the respondents cannot give any benefit to the bona*

*fide claimants for such benefits. Therefore, we do not find any justification to deny the benefit of submitting the option to the applicants who have not given their option before 11.12.2013.*

*34. A detailed reading of SAI 1/S/2008 indicates that vide Para 21 power has been given to the competent authority for relaxing the rule in case of undue hardship. There is no denying that, the facts clearly demonstrate that it was admittedly a case of extreme hardship to the applicants that they were given less salary as compared to their contemporaries or juniors in the same rank and discharging the same duties due to a technical default/ rigid mindless application of rules. Moreover, the stand of the Respondents of giving less salary to the applicants due to their perceived omission is not only, not justified, but is against the spirit of a model employer who by this action has created serious disparity and anomalous service conditions for the service personnel in one rank itself."*

4. Vide Para-39 of the said order dated 03.09.2021 thereof, it was directed to the effect:-

*"39. In view of the above, all the three OAs under consideration are allowed and we direct the Respondents to:-*

- (a) Review the pay fixed of the applicants and after due verification refix their pay under 6<sup>th</sup> CPC in a manner that is most beneficial to the applicants.*
- (b) Thereafter refix their pay in all subsequent ranks and on transition to 7<sup>th</sup> CPC where applicable, and also ensure that they are not drawing less pay than their juniors.*
- (c) Refix all pensionary and post retiral benefits accordingly.*
- (d) Issue all arrears and fresh PPO where applicable, within three months of this order and submit a compliance report."*

5. Vide Para-40 of the said order dated 03.09.2021 in OA 1182/2018, OA 1314/2018 and OA 892/2019, it was directed to the effect:-

*"40. In view of the fact that there are a large number of pending cases which are similarly placed and fall into Category A or B, this order will be applicable in rem to all such affected personnel. Respondents are directed to take suo moto action on applications filed by similarly aggrieved personnel and instruct concerned PAO(OR) to verify records and re-fix their pay in 6th CPC accordingly.",-*

thus, observing categorically that in view of fact that there are a large number of pending cases which are similarly placed and fall into Category A or B, the said order would be applicable *in rem* to all such affected personnel and the respondents were directed to take suo moto action on applications filed by similarly aggrieved personnel and instruct the concerned PAO(OR) to verify records and re-fix their pay in 6<sup>th</sup> CPC accordingly.

6. Significantly vide judgment dated 05.05.2025 of the Hon'ble High Court of Delhi in WP(C) 5880/2025 in *UOI &*

*Ors. vs. Sub Mahendra Lal Srivastava(Retd)* which writ petition assailed the said order dated 03.09.2021 of the AFT(PB), Principal Bench in OA 1182/2018 i.e. *Sub Mahendra Lal Shrivastava(Retd) vs. UOI & Ors.*, OA 1314/2018 in *Sub Sattaru Lakshmana Rao vs. UOI & Ors.* and OA 892/2019 in *Sub(TIFC) Jaya Prakash vs. UOI & Ors.*, the said order dated 03.09.2021 of this Tribunal in the said cases were upheld with observations therein vide Para-24 to the effect:-

“There are various reasons why, in our view, this writ petition cannot succeed:

- (i) Firstly, the writ petition has been preferred more than 3½ years after the passing of the impugned judgment, without even a whisper of justification for the delay.
- (ii) (ii) The writ petition is, therefore, liable to be rejected even on delay and laches. Nonetheless, as the issue is recurring in nature, we have examined it on merits.
- (iii) (iii) It appears that the earlier decision of the AFT in Sub Chittar Singh has never been challenged by the petitioner. It is well settled that the UOI cannot adopt a pick and choose policy, and leave one decision unchallenged, while challenging a later decision on the same issue. Moreover, we find that the AFT, in the impugned order, has placed reliance on the decision in Sub W.P.(C) 5880/2025 Page 17 of 19 Chittar Singh which, as we note, remains unchallenged.
- (iv) Even on merits, there is no substance in the present petition. The reasoning of the AFT is unexceptionable. Though para 8 of the SAI required persons to exercise the option regarding the manner in which they were to be extended the benefit of the revised pay scales within three months of the SAI, which was issued on 11 October 2008, it was extended twice. It was first extended by letter dated 21 December 2010 till 31 March 2011. Subsequently, by letter dated 11 December 2013, it was directed that applications for change of option received till 30 June 2011 would be processed. Though it is correct that the respondents

did not exercise their option within that period, it is also clear that each of the respondents had exercised their option prior to 30 December 2013.

- (v) Moreover, we are also in agreement with the AFT's reliance on clause 14(b)(iv) of the SAI, which mandated that, if no option was exercised by the individual, the PAO would regulate the fixation of pay of the individual on promotion to ensure that he would be extended the more beneficial of the two options, i.e., of either of re-fixation of pay with effect from 1 January 2006 or w.e.f. the date of his next promotion.
- (vi) We are in agreement with the AFT that, given the fact that the instruction was pertaining to officers in the army, and was inherently beneficial in nature, it has to be accorded an expansive interpretation. The AFT has correctly noted that the very purpose of granting extension of time for exercise of option was to cater to situations in which the officers concerned who in many cases, such as the cases before us, were not of very high ranks, would not have been aware of the date from which they were required to exercise their option and therefore may have either exercised their option belatedly or failed to exercise their option. It was, obviously, to ensure that an equitable dispensation of the recommendations of the 6th CPC that clause 14(b)(iv) place the responsibility on the PAO(OR) to ensure that the officers were given the more beneficial of the options available to them.
- (vii) There is no dispute about the fact that, by re-fixing the pay of the respondents w.e.f. 1 January 2006 instead of the date from which they were promoted to the next grade between 1 January 2006 and 11 October 2008, the respondents suffered financial detriment. They, therefore, were not extended the most beneficial of the two options of pay of fixation available to them, as was required by clause 14(b)(iv) of the SAI."

7. It is essential to observe vide Para-24(3) of the verdict of the Hon'ble High Court of Delhi dated 05.05.2025 in WP(C) 5880/2023, it has been specifically observed to the effect that the decision of the AFT in **Sub Chittar Singh** already referred to hereinabove had not been challenged by the UOI and that the

UOI cannot adopt a pick and choose policy and leave one decision unchallenged, while challenging a later decision. Furthermore, it was also observed vide Para-24(5) of the said order already referred to hereinabove that the Hon'ble High Court of Delhi observed that it was in agreement with the AFT's reliance on clause 14(b)(iv) of the SAI which mandated that if no option was exercised by the individual, the PAO would regulate the fixation of pay of the individual on promotion to ensure that he would be extended the more beneficial of the two options, i.e., of either of re-fixation of pay with effect from 1 January 2006 or w.e.f. the date of his next promotion.

8. Vide Paras 25 and 26 of the said Order of the Hon'ble High Court of Delhi, it was observed to the effect:

"25. We, therefore, are in complete agreement with the impugned judgment of the AFT and see no cause to interfere therein.

26. We also clarify that though Mr. Pandey fairly submits that the impugned order of the AFT stands implemented, in case any amount remains recovered from the respondents on the basis of the fixation of their pay as granted to them and challenged before the AFT, the said amount would be refunded to them forthwith"

9. In a catena of orders of this Tribunal similar prayers have been upheld. It is essential to observe that despite the repeated orders in *Chittar Singh, Sub Mahendra Lal Shrivastava(Retd)* (supra) as well as the judgment dated 05.05.2025 of the Hon'ble High Court of Delhi upholding the orders of this Tribunal in *Sub Mahendra Lal Shrivastava(Retd)*(supra) and there having been no challenge to the order of the Tribunal in *Sub Chittar Singh* by the respondents and the respondents continue to not grant the non beneficial option to the PBORs and the Officers merely on the premise that the most beneficial option has not been exercised, the present case is a clear indicator of the same whereby the impugned order states to the effect:-

*"PIFA is not agree to concur the instant AFT order(in-rem), therefore case may be treated as closed."*

**Nothing could be sadder for the system.**

10. It is essential to observe that vide judgment dated 09.12.2024 in *Lt Col Suprita Chandel(Retd) vs UOI & Ors.* (2024) SCC Online SC 3664, it has been observed by the Hon'ble Supreme Court vide Paras-14 and 15 thereof to the effect:-

*"14. It is a well settled principle of law that where a citizen aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. [See Amrit Lal Berry vs. Collector of Central Excise, New Delhi and Others, (1975) 4 SCC 714]*

*15. In K.I. Shephard and Others vs. Union of India and Others, (1987) 4 SCC 431, this Court while reinforcing the above principle held as under:-*

*"19. The writ petitions and the appeals must succeed. We set aside the impugned judgments of the Single Judge and Division Bench of the Kerala High Court and direct that each of the three transferee banks should take over the excluded employees on the same terms and conditions of employment under the respective banking companies prior to amalgamation. The employees would be entitled to the benefit of continuity of service for all purposes including salary and perks throughout the period. We leave it open to the transferee banks to take such action as they consider proper against these employees in accordance with law. Some of the excluded employees have not come to court. There is no justification to penalise them for not having litigated. They too shall be entitled to the same benefits as the petitioners. ...."*

*(Emphasis Supplied)",*

thus, observing categorically that where a citizen is aggrieved by an action of the government department has approached the



court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. It is expected that the respondents authorities adhere to the law and do not compel persons to litigate and add to litigation causing unnecessary trauma to the litigants and expense to the litigant and also unnecessary burden on the exchequer of the Union of India and the respondents arrayed.

11. In the light of the above consideration, the OA 3952/2025 is allowed and the respondents are directed to:

- (a) Review the pay fixed of the applicant in a most beneficial manner after due verification and ensuring that the applicant is not drawing less pay than that his coursemate/junior.
- (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.

12. No order as to costs.

13. A copy of this order is directed to be sent to Secretary, DMA and Chief of all three Forces and to Defence Secretary to ensure compliance of the directions in Sub Mahendra Lal Srivastava(Retd), Sub Chittar Singh upheld by the Hon'ble High Court of Delhi vide judgment dated 05.05.2025 in WP(C) 5880/2025 in *UOI & Ors. vs. Sub Mahendra Lal Srivastava(Retd)* in view of the law laid down by the Hon'ble Supreme Court in *Lt Col Suprita Chandel(Retd) vs UOI & Ors.* vide paras-14 and 15 referred to hereinabove.

(JUSTICE ANU MALHOTRA)  
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)  
MEMBER (A)

TS/chanana