

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

29.

OA 2033/2023 with MA 5550/2025

JC-377434Y Ex Sub(JE SYS) Satendra Kumar Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. J P Sharma, Advocate
For Respondents : Mr. Shyam Narayan, Advocate

CORAM

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

ORDER

MA 5550/2025

This is an application filed under Rule 12(5) of the Armed Forces Tribunal (Procedure) Rules, 2008 for condonation of delay of 127 days in filing the counter affidavit. In view of the reasons mentioned, the delay of 127 days in filing the counter affidavit is condoned. The MA stands disposed of.

OA 2033/2023

The applicant JC-377434Y Ex Sub(JE SYS) Satendra Kumar vide the present OA filed under Section 14 of the Armed Forces Tribunal Act, 2007 makes the following prayers:

- (a) *“Direct to respondents to re-fix his correct Pay and Allowances equal to the pay of his batch-mate/junior wef 01.07.2007 with it all consequent benefits i.e. whole arrears between the period wef 01.07.2007 to 28.02.2023 to be credited in his Account No.11601956938, State Bank of India, Kandhla, Railway Road, Muzaffarnagar(UP) IFSC Code SNIN0002383 and thereafter, pensionary benefit wef 01.03..2023 by issue Corr E-PPO to the applicant accordingly as law has already settled by this Hon’ble Tribunal in Sub M L Shrivastava & Others Vs Union of India and others(OA No.1182 of 2018 decided on 03.09.2021) and release whole arrears alongwith 10% p.a. interest till the final payment.*
- (b) *Issue any other appropriate order or direction which this Hon’ble Tribunal may be deem fit and proper in facts and circumstances of the case.”*

2. The applicant JC-377434Y Ex Sub(JE SYS) Satendra Kumar, was enrolled in the Indian Army on 26.02.1993 and was promoted to the rank of Nb Sub in JE SYS on 01.07.2007 and further to the rank of Sub wef 01.03.2013 and was discharged from service after rendering 30 years and 03 days of service on 28.02.2023. The grievance of the applicant is that during his discharge drill, the PAO(OR) Corps of Signals in final settlement of account fixed his pay @ Rs.58,600/- and accordingly the PCDA(P) Allahabad issued E-PPO No.205202300628 dated 09.02.2023 whereas his batch-mate

and junior No.JC-377452F Sub (JE SYS) Gauri Shankar is getting Rs.60,400/- as per S & A for the month of June, 2020. The applicant further submits that he opted Option Form on 01.02.2023 and his serving Unit 9 Corps Signals Regiment has published the Part II Order No.0/0069/0001/2023 dated 19.02.2023 and in response to his representation/application for proper adjustment of his pay and allowances, the respondents vide reply No.LG-08/RTI/JC377434Y dated 26.05.2023 stated to the effect:

- (c) *"Refer to your RTI Application under reference, information sought is a grievance in terms of Section 2(f) of RTI Act, 2005. However, it is informed that option for SIXCPC has wrongly been opted as the cutoff date for exercising the option for the same has been extended upto 30.06.2011 vide GOI, MOD letter No. Air HQ/99141/04/AFPCC/1697/D(Pay/Services) dated 11.12.2013*
- (d) *Further, same has been extended upto 31.05.2013 vide GOI,MOD Letter No.1(5)/2012/d(Pay/Services) dated 25th April, 2013.*
- (e) *Hence, the DO II as published for SIXCPC and option as exercised as enclosed are not in order. "*

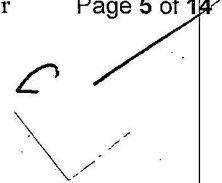
3. The applicant further submits that the Armed Forces Tribunal has settled the law in a catena of orders that where the applicants who have not opted their option as per the 6th CPC and the 7th CPC, it is the responsibility of the respondents and the service authority to

look after the interests of its own subordinate personnel as many of them may not be knowledgeable about the intricacies of the calculations and no one would ever knowingly opt for a less beneficial option. The applicant further submits as per Para 14(b)(iv) of SAI I/S/2008, if no option is exercised by the individual, the PAO(OR) is to regulate and fix the pay of the individual on promotion in more beneficial manner by keeping in view the views expressed by the Hon'ble Armed Forces Tribunal(PB) vide order dated 10.12.2014 in OA 113/2014 titled *Sub Chittar Singh Vs Union of India & Ors.* and a catena of other orders of the Armed Forces Tribunal wherein also similarly circumstanced applicant (s) have been granted the stepping of pay at par to his junior.

4. The Hon'ble Supreme Court in *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. 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.

6. 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:

- (f) *"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.*
- (g) 13. *In view of the foregoing, we allow the OA and direct the Respondents to:-*
- (h) (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.*
- (i) (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.*



- (j) (c) *Issue all arrears within three months of this order and submit a compliance report.*
- (k) (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 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.

(m) 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. The MA 1225/2025 was filed by the applicant on 19.03.2025 seeking preponement of the date of hearing. The respondents on 28.03.2025 produced a copy of corrigendum PPO bearing No.205202300628-2 dated 06.05.2024 granting him the benefit of pay/service pension payable at Rs.38,700/- wef 01.03.2023 for life.

9. On 01.09.2025, the applicant has placed on record a copy of document No.PDC/843/JC377434Y/T-9 dated 18.06.2025 received from the Sr Accounts Officer(PDC) in response to a legal notice dated 03.06.2025 wherein the respondents were asked to pay/deposit the pay and allowances of the applicant wef 01.07.2007 to 28.02.2023. The applicant has submitted an affidavit dated 05.01.2026 depicting a chart showing the acceptance of the grant of the revised pay fixation of the applicant wef 01.03.2023. However, the applicant has not been paid the arrears due to him for the period

from 01.07.2007 to 28.02.2023 and correct fixation of pay and allowances.

10. Vide order dated 01.09.2025, the respondents were directed to put forth the status of the payment of the arrears to the applicant from the period 01.07.2007 to 28.02.2023 on the basis of re-fixation of his pay. On 03.11.2025, the respondents submitted a document No.P/JC-377434Y/LC/T-02/OC-116 dated 24.10.2025 with a copy of the letter dated 25.08.2025 of the Pay Accounts Office(Ors) received from the Corps of Signals and informing the counsel of the applicant with regard to the implementation of the AFT(PB) New Delhi order and that the request seeking payment of due arrears would be adjusted accordingly informing that Signals Records vide letter dated 09.08.2025 had approached the PAO(OR) Corps of Signals, Jabalpur to resolve the issue. The contents of the said letter are to the effect:

Sub: COURT CASE NO .2033/2023 FILED BY JC377434Y EX SUB SATENDRA KUMAR VS UNION OF INDIA AND OTHERS IN THE HON AFT(PB) NEW DELHI

Refedrence :-Record Office letter No.P/JC 377434Y/LC/T-2/PC-1116 dated 09/08/2025

With reference to the above legal matter, it is intimated that application was wrongly been opted SIXCPC on 01/02/2023, as the cutoff date for exercising the option for the same been extended upto 30.06.2011 vide Gol, MoD letter No.AIR HQ/99141/04/AFPCC/1697/D(Pay/Service) dated 25.04.2013. Further, same has been extended again upto 31.05.2013 vide Gol, MoD Letter No.1(5)/2012/D(Pay/Service) dated 11.12.2013. Hence the DOII as published for 6th CPC vide DOII No.1/3186/049 dated 08.09.2023 is not in order, therefore rejected manually as per extant rule.

Further, his batch mate JC377452 was exercised the option for 6th CPC within stipulated time period and his SICPC DO II was published vide DOII No.1/0818/001 dated 18.09.2012 and this the reason for the difference in basic pay, in comparison with Junior (Batchmate).

11. The respondents, however, sought time to ascertain the status of payment of arrears from the period of 01.07.2007 to 28.02.2023 on the basis of revised pay fixation of the applicant. The respondents were further directed to place on record a chart specifying the receipt of pension amount on the basis of re-fixation of pay and allowance for the period from 01.03.2023 onwards. The applicant has submitted an affidavit dated 05.01.2026 stating vide paras 3 & 4 to the effect:

"3. That during the pendency of *ibid* OA, PCDA(P), Allahbad has revised Corr E-PPO No.2052023000628 Corr No.2 dated 06.05.2024 (copy attached) and revised my last drawn or pension are as under:

S/	Old last drawn	Revised last	Old Service	Revised Ser
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No.		drawn	Pension wef 01.03.2023	Pension wef 01.03.2023
(a)	Rs.58,600/-E- PPO No.20520230062 8 dt 09.02.2023	Rs.66,000/-E- PPO No.205202300 628 Corr No.2 dt 06.05.2024	Rs.35,000/-E- PPO No.2052023006 28 dt 09.02.2023	Rs.38,700/- E-PPO No.20520230 0628 Corr no.2 dt 06.05.2024
(b)	Rs.70,600/-E- PPO No.20520230062 8 dt 09.02.2023	Rs.77,400/-E- PPO No.205202300 628 Corr No.2 dt 06.05.2024	Rs.38,700/-E- PPO No.2052023006 28 dt 06.05.2024 & 18.07.2025	Rs.38,700/- E-PPO No.20520230 0628 Corr no.2 dt 06.05.2024 & 18.07.2025

1. On the basis of *ibid* Corr E-PPO No.205202300628 Corr No.2 dated 06.05.2024, PCDA(P) Allahabad has released the different value between old value DCGR to newly DCRG value from Rs.16,40,100/- to Rs.18,13,482/- and total arrears a sum of Rs.1,73,382/- and also revised old Comm Value from Rs.18,32,040/- to Rs.20,25,713/- and total arrears Rs.1,93,673/- and also credited arrears different revised Service Pension a sum of Rs.49,847/-. So, total arrears credited in my account a sum of Rs.4,16,902/- on May 2024."

The applicant reiterated vide para 5 of the said affidavit dated 05.01.2026 to the effect:

"5. That now PAO(OR) Corps of Signals has not yet been released the arrears of pay and allowances as per revised rate between the period wef 01.07.2007 to 28.02.2023 so far.

Whereas PCDA(P) Allahabad has revised my Service Pension

wef 01.03.2023 vide Corr E-PPO E-PPO No.205202300628

Corr No.2 dated 06.05.2024."

12. The respondents on the other hand submitted a copy of document dated 15.12.2025 stating to the effect:

Sub: COURT CASE NO.2033/2023 FILED BY JC377434Y EX SUB SATENDRA KUMAR VS UNION OF INDIA AND OTHERS IN THE HON AFT(PB) NEW DELHI

Refedrence :-Record Office letter No.P/JC 377434Y/LC/T-2/PC-1116 dated 26/11/2025

"application has wrongly opted SIXCPC on 01/02/2023, as the cutoff date for exercising the option for the same had been extended upto 30.06.2011 vide GoI, MoD letter No.AIR HQ/99141/04/AFPCC/1697/D(Pay/Service) dated 25.04.2013. Further, same had been extended again upto 31.05.2013 vide GoI, MoD Letter No.1(5)/2012/D(Pay/Service) dated 11.12.2013. Hence the DOII as published for 6th CPC vide DOII No.1/3186/049 dated 08.09.2023 is not in order, therefore rejected mannally as per extant rule vide this office letter No.PDC/JC377434Y/ Legal dated 25.08.2025."

13. It is thus sought to be contended by the respondents vide letter dated 25.08.2025 that the applicant had wrongly opted 6th CPC on 01.02.2023 as the cutoff date for exercising the option for the same been extended upto 30.06.2011 vide GoI, MoD letter No.AIR HQ/99141/04/AFPCC/1697/D(Pay/Service) dated 25.04.2013 and further the same had been extended again upto 31.05.2013 vide GoI,

MoD letter No.1(5)/2012/D(Pay/Services) dated 11.12.2013 and hence the DO II was published for 6th CPC vide DO II No.1/3186/049 dated 08.09.2023 was not in order and thus was rejected.

14. The applicant has also placed on record a copy of judgment dated 20.04.2024 of the Hon'ble High Court of Punjab & Haryana at Chandigarh in case titled *Ranjit Singh Vs State of Punjab & Ors* in Civil Writ Petition No.6101-2021 to submit to the effect that in as much the applicant was entitled to the retirement dues as held in the case of *Sub M L Shrivastava Vs Union of India & Ors* by the Armed Forces Tribunal (PB) New Delhi, the applicant is also entitled for the grant of interest on the arrears for the period 01.07.2007 to 28.02.2023 on the basis of revised amount from the date of the dismissal of the Writ Petition filed by the respondents in the case of Sub M L Shrivastava.

15. It is essential to observe that in view of the law laid down in *Sub M.L Shrivastava Vs Union of India & Ors*(supra) upheld vide order dated 05.05.2025-WP(C) 5880/2025, CM APPLs 26841/2025 & 26842/2025 in *Union of India & Ors Vs Sub Mahendrea Lal*

Shrivastava (Retd), the applicant is held entitled to the grant of arrears of the revised pay fixation wef 01.07.2007 to 28.02.2023 in terms of the revised Corr PPO in the 6th CPC for the period 01.07.2007 to 28.02.2023 with interest @ 8% p.a. payable within three months from the date of this order which be paid within three months from today failing which there shall be further interest @ 8% p.a. payable thereon till the date of payment.

Pronounced in the Open Court today i.e. the 16 day of February, 2026

~~Case list 12-1-2026~~

16. No order as to costs.


(REAR ADMIRAL DHIREN VIG)
MEMBER(A)


(JUSTICE ANU MALHOTRA)
MEMBER(J)

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