

COURT NO.3  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA 1749/ 2017

Ex Sgt Brindra Kumar Pandey	.....	Applicant
Versus		
Union of India and Ors.	.....	Respondents

For Applicant	:	Mr. V S Kadian, Advocate
For Respondents	:	Ms. Jyotsna Kaushik, Advocate
		Sgt. Pradeep Sharma, DAV In-charge, Legal Cell

Date-3 <sup>rd</sup> February, 2026
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CORAM

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)  
HON'BLE MS. RASIKA CHAUBE MEMBER (A)

ORDER

This application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, seeking the following reliefs:

- (a) *Quash and set aside the impugned letter No. DCA/AF/pen-Rev/CPGRAM dated 23.05.2017. And/or*
- (b) *Direct respondents to fix the pension of the applicant keeping in view his Group X (Diploma) scale of Sergeant rank by upgrading to the rank of Junior Warrant Officer Group X. And/or*

*(c) Direct respondents to the due arrears of correct pension with interest 12% p.a. with effort from the date of retirement with all the consequential benefits. And/or*

*(d) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.*

### FACTS OF THE CASE

2. The applicant, Ex Sergeant Brindra Kumar Pandey, was enrolled in the Indian Air Force on 23<sup>rd</sup> December, 1983 and after completing 20 years and 9 days of qualifying service in the rank of Sergeant, Group X was discharged on 31<sup>st</sup> December, 2003 with an initial service pension of Rs. 2,463/- per month w.e.f. 1<sup>st</sup> January, 2004 vide PPO No.08/14/B/1247/2003., further revised at Rs. 23,271/- w.e.f. 1<sup>st</sup> January, 2016.

3. The applicant's grievance is that his pension has been fixed in a lower pay scale instead of being placed in the scale of JWO / Naib Subedar Gp X (Diploma holder) for which he made representations vide emails dated 20<sup>th</sup>/23<sup>rd</sup> April, 2016, CPGRAM dated 31<sup>st</sup> October, 2016. However, he received final rejection vide DCA letter dated 23<sup>rd</sup> May, 2017 citing various policies.

#### **SUBMISSIONS ON BEHALF OF THE APPLICANT**

4. The applicant submits that he was discharged on 31<sup>st</sup> December, 2003 as Sergeant Group-X, holding the substantive pay scale of Rs. 5000-100-6500 w.e.f. 10<sup>th</sup> October, 1997 upon renaming of Group-I to Group-X for technical tradesmen under 5th CPC and that he was distinct from non-technical Group-X personnel on Rs.4670-85-5925 (e.g., Education Instructors), with technical tradesmen receiving higher scale, as consistently reflected in pension revisions. Circular No. 430 (10<sup>th</sup> March 2010) fixed Group-X Sgt at Rs.6800 and Group-X (Diploma Holder) at Rs.7206 w.e.f. 1<sup>st</sup> July, 2009, Circular No.501 (17<sup>th</sup> January, 2013) revised the latter to Rs.7760; and Circular No.568 (13<sup>th</sup> October, 2016) positioned Group-X Sgt at Rs.7745 and Group-X (Diploma Holder) Sgt at Rs.7750, intermediately between Sergeant and Junior Warrant Officer/Naiib Subedar equivalents.

5. The applicant contends that implementation of One Rank One Pension through Circular No.555 (04<sup>th</sup> February, 2016) pursuant to MoD letter dated 3<sup>rd</sup> February, 2016

wrongly eliminated the Group-X (Diploma Holder) category, fixing his pension at Rs.9055 (Table 16, Column 9) at par with lower-scale Group-X Sgt (previously Rs.6800), disregarding his superior pay scale and technical allowance integral to pension computation and therefore the absent intelligible differentia or rational nexus for this merger, particularly after years of differentiated tables, violates Article 14 and erodes his vested rights under pre-existing policy, without granting compensating higher fixation.

#### **SUBMISSIONS ON BEHALF OF THE RESPONDENTS**

6. The respondents submit that the pension of personnel below officer rank is regulated by statutory regulations read with successive Government policy letters and implementing circulars issued by the competent authorities. These instruments prescribe the method of fixation and revision of pension with reference to rank, group and qualifying service, and revisions have consistently followed that framework. It is further submitted that, post-rationalisation under successive Central Pay Commissions, group structures and pay elements such as

group pay and military service pay have been consciously integrated into the pensionary architecture. Group pay is treated as “pay” for all purposes, including calculation of increments, dearness allowance and pension and is not a detachable or separately withdrawable allowance.

7. The respondents further submit that there is a clear conceptual distinction between, on the one hand, “modified parity” or “minimum guaranteed pension” exercises undertaken for pre-2006 retirees and, on the other hand, the later One Rank One Pension (OROP) dispensation. In the modified-parity regime, pension was linked to a notional fitment in the revised pay structure corresponding to earlier scales, sometimes with reference to the maximum of the applicable scale or highest notional pay across the three services for a given rank and group. OROP, by contrast, is a stand-alone scheme under which pension is re-fixed with reference to the average of the minimum and maximum pension actually drawn by live retirees in a base year, for each rank, group and qualifying service. The legal entitlement under OROP is therefore to parity with similarly placed

pensioners within that defined matrix, and not to the perpetuation of relativities that may have existed under earlier, distinct exercises.

8. It is contended by the respondents that under the notified OROP scheme, the governing parameters for pension fixation are the rank, group and qualifying service for which pension was originally sanctioned. The scheme does not recognise sub-classifications within a given rank and group based on educational qualifications or trade-specific earlier scale variations, except to the extent that they are already embedded in the pay and group structure in force at the base year. Once the competent authority has, in its policy wisdom, adopted rank, group and qualifying service as the determinative classification, there is no legal warrant to create additional sub-categories or to claim OROP pension with reference to a rank or scale higher than that actually held at the time of retirement. To permit such claims would amount to judicially re-crafting the scheme, which lies in the domain of policy.

9. The counsel for respondents submit that any higher relativities that may have existed at certain points in time between different categories within the same rank and group were the product of the specific methodology then adopted—such as use of different pre-revised scales or the “highest of notional pay” formula—and cannot, as a matter of right, be transplanted into the OROP framework. The legal entitlement under OROP is confined to receiving the same pension as other retirees of the same rank, group and qualifying service, irrespective of date of retirement. A demand to be fixed at a rate outside or above the notified OROP table for that rank-group-service combination, by importing historic advantages from an earlier regime, travels beyond the four corners of the scheme.

10. Furthermore, it is submitted on behalf of the respondents that acceding to demands for OROP fixation with reference to the scale of a higher rank, or by carving out intra-group sub-classes not envisaged in the scheme, would inevitably trigger a cascading effect. Other personnel similarly placed, as well as those actually holding the higher

ranks, would then raise analogous claims, thereby unsettling the carefully balanced rank-wise and group-wise pension structure. The OROP scheme represents a considered policy balance between fiscal constraints and the objective of uniform pension for the same rank, group and length of qualifying service; absent violation of a constitutional or statutory mandate, this policy balance deserves judicial deference.

### **ANALYSIS**

11. The facts put forth by the Applicant and the Respondents have been gone through at length and it emerges that the applicant and the Respondents are both in agreement on certain facts. Post implementation of the 5<sup>th</sup> Pay commission Sgt Group X had two scales Rs 5000-100-6500 for Sgt Group X (Technical Diploma Holders) and Rs 4670-85-5925 Sgt Group X (Non Diploma Holders). The Applicant was a Sgt Group X (Diploma Holder) in the pay Scale of Rs 5000-100-6500. He was discharged from Service on 31<sup>st</sup> December, 2003 and was granted pension based on the above scale.



12. Post implementation of 6<sup>th</sup> CPC w.e.f. 1<sup>st</sup> January, 2006 there were several circulars issued for revision of pension of the pre 2006 retirees (a category to which the Applicant belongs since he retired on 31<sup>st</sup> December, 2003). These were Circular No 568, Circular No 430, Circular No 501. Based on these circular the pension of the applicant was fixed as under:-

Service Pension	Wef	Authority	Remarks
Rs. 7750/-	01/01/2006	GOI, MoD No. 1(2)/2016-D(Pen/Pol) dt 30/09/2016 (Circular No. 568 dated 13/10/2016)	Minimum guaranteed pension for the rank in 6 <sup>th</sup> CPC of delinking of Qualifying Service w.e.f. 01/01/2006.
Rs. 7206/-	01/07/2009	GOI, MoD letter No. PC 10(1)/2009-D (Pen/Pol) dated 08/03/2010 (Circular No. 430 dated 10/03/2010)	This Govt. order issued as per recommendation of CSC 2009 and effective from 01/07/2009. Beneficial amount of Rs. 7750/0 will be continue upto 23/09/2012.
Rs. 7760/-	24/09/2012	GOI, MoD letter No. 1(13)/2012/D(Pen/Policy) dated 17/01/2013 (Circular No. 501 dated 17/01/2013)	This Govt. Order issued as per recommendation of CSC-2012 and effective from 24/09/2012. In this pension was recalculated highest across the three services for equivalent rank and group.

13. Since all these circulars were for Pre 2006 retirees, when the distinction between Sgt Group X diploma holder and Non Diploma Holder existed, the applicant got benefit of being in Sgt Group X (Diploma Holder) and his pension was modified accordingly. However, based on the recommendations of the 6<sup>th</sup> CPC, rationalization, and merger of scales within the same Group was carried out because of which only 2 groups remained Gp X and Gp Y; the disparity amidst the Diploma Holders and Non-Diploma holders in Group X was removed which implies that had the applicant continued in service post 2006 he would have been placed in Group X since based on 6<sup>th</sup> CPC recommendations w.e.f. 01.01.2006 the disparity between Sgt Group X (Diploma holder) and Sgt Group X (Non Diploma holder) which existed during the 5<sup>th</sup> CPC was removed.

14. Thereafter Circular 555 was issued on 1<sup>st</sup> July, 2014 (OROP order) whereby the pay of the applicant was given the benefit of OROP and fixed at Rs 9055/- while doing so the rank of the applicant was taken as Sgt, his group was taken as X along with the number of years of service the applicant had put

in. Thereafter on 1<sup>st</sup> January, 2016 as per Circular 570 dated 21<sup>st</sup> October, 2016 his pension was further revised to Rs 23271/-. Thus, there appears no anomaly in the action taken by the respondents while implementing the Circular 555 dated 1<sup>st</sup> July, 2014 and circular 570 dated 21<sup>st</sup> October, 2016.

15. In view of the above, we find no merit in the reliefs sought for, hence the OA needs to be dismissed. The OA is dismissed accordingly.

Pronounced in open Court on the 3<sup>rd</sup> day of February, 2026.

[JUSTICE NANDITA DUBEY]  
MEMBER (J)

[RASIKA CHAUBE]  
MEMBER (A)

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