

COURT NO. 1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

1.

OA 3165/2025 WITH MA 544/2026

Lt Col Sundar Lalvani (Retd) ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Akshat Malpani, Advocate  
For Respondents : Gp Capt Karan Singh Bhati, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE MS. JUSTICE RASIKA CHAUBE, MEMBER (A)

O R D E R  
30.03.2026

Invoking the jurisdiction of this Tribunal under Section 14, the applicant has filed the present application.

The relief claimed by the applicant in Para 8 reads as under:

*(a) To the respondents to grant notional promotion to the applicant in the rank of Colonel Selection Grade treating his first selection promotion to the rank of Lt Colonel (SG) and fix his pension accordingly as appropriate to his reckonable pensionable service of 33 years.*

*Or*

*(b) Alternatively grant notional promotion to the rank of Colonel (Time Scale) from the date of completion of 26 years of service for the reckonable pensionable service of 33 years.*

2. The applicant was commissioned in the Regiment of Artillery of the Indian Army as a 2<sup>nd</sup> Lieutenant on 15.06.1966. He was subsequently promoted to the ranks of Lieutenant, Captain, and Major upon completion of the stipulated periods of service. However, during his service, promotions beyond the rank of Major were based on selection

conducted by the Selection Board. The first selection rank was that of Lieutenant Colonel (Selection Grade).

3. In 1987, after completing 21 years of service, the applicant was selected for promotion to the rank of Lieutenant Colonel (Selection Grade). However, due to the pyramidal structure of the Indian Army, the applicant did not receive any further promotion and retired from service on superannuation on 31.12.1997 after rendering 31 years, 6 months, and 16 days of service. He is currently in receipt of service pension for the same.

4. It is the case of the applicant that owing to the pyramidal structure of the promotion system, the Government introduced the concept of granting time-scale promotions to officers who were passed over for selection to the rank of Lieutenant Colonel. Such officers, upon completion of 21 years of service, were granted the rank of Lieutenant Colonel (Time Scale). However, in spite of being granted the rank of Lieutenant Colonel (Time Scale), they continued to hold the substantive rank of Major and their pay remained significantly lower than that of Lieutenant Colonel (Selection Grade).

5. When the recommendations of the 5<sup>th</sup> Central Pay Commission were implemented, the pay scales of Lieutenant

Colonel (Selection Grade) and Lieutenant Colonel (Time Scale) were merged and made identical. However, the rank pay remained distinct, i.e., Rs. 1600/- for Lieutenant Colonel (Selection Grade) and Rs.1200/- for Lieutenant Colonel (Time Scale). Consequently, the total pay of a Lieutenant Colonel (Selection Grade) remained higher than that of a Lieutenant Colonel (Time Scale).

6. Subsequently, the organizational structure of the Defence Forces was revamped and a new policy was introduced by the Army vide Government of India letter dated 21.12.2004 (Annexure A-9), whereby, as per Para 5, the following policy was brought into force:

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

*3. Officers will be eligible for grant of substantive rank of Lieutenant Colonel on qualifying promotion examination Part/D': Subject to this, seniority in service of officers will be protected until they complete 13 years reckonable commissioned service. Loss of seniority for non qualification in promotion examinations already awarded will continue to hold good Qualification in Part D' examination will no longer be mandatory for grant of substantive rank of Major. Promotions accruing from Para 2 above shall also be subject to the officers fulfilling other criteria to be notified immediately by the Army Headquarters through Army Orders.*

*4. Those service in the rank of Lieutenant Colonel/Time Scale) will now be eligible for grant of the substantive rank of Lieutenant Colonel. The existing rank of Lieutenant Colonel (Selection) shall remain applicable till the existing Lieutenant Colonels (Selection) are either promoted to the rank of Colonel (Selection) or Colonel (Time Scale) or are retired. No further consideration for promotion to the rank of Lieutenant Colonel (Selection) shall be made after 16 Dec2004.*

*5. Those officers who could not be considered for promotion due to organizational constraints to the select grade rank of Lieutenant!*

*Colonel (as per earlier policy) will be provided protection of their seniority vis-e-vis their own batchmates while being promoted to the select grade rank of Colonel*

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7. Consequent to the implementation of the aforesaid policy and after the introduction of the OROP pension scheme, the applicant contends that in the year 2023 he observed that several officers in the ranks of Lt Col (TS) and Major who were junior to him and had served under him but retired after 2004 following the implementation of the policy dated 21.12.2004 were granted the rank of Colonel (Selection Grade) and Colonel (Time Scale) and are receiving higher pension than him.

8. Claiming parity and seeking the same benefit, the applicant has filed the present Original Application.

9. The respondents, however, argue that the issue has already been decided by a Coordinate Bench of this Tribunal in the case of *Lt Col CJG Scott (Retd) Vs Union of India & Ors*, (OA No. 2702/2021 decided on 21.08.2025), and therefore nothing survives for adjudication in the present matter.

10. A perusal of the order passed in the case of *Lt Col CJG Scott (Retd)* (supra) shows that the prayer made by the applicant in that case is identical to the prayer made in the present application.

11. After evaluating the facts in detail, the Coordinate Bench considered the relevant policies and various aspects of the matter and in Para 22, decided the issue as follows:

22. *On a parity of reasoning, it is apparent that the letter No.18(1)/2004-D(GS-1) dated 21.12.2004, which relates to the restructuring of the officers Cadre of the Army, and which as scanned reads to the effect:-*

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No. 18(1)/2004-D(GS-1)  
Bharat Sarkar/Government of India,  
Raksha Mantralay/Ministry of Defence,  
New Delhi-110011,

21 Dec 2004

To  
The Chief of Army Staff

Ammerurc A-1

Subject : RESTRUCTURING OF THE OFFICERS' CADRE OF THE ARMY

Sir,

President is pleased to sanction revision of various terms and conditions of service for Army Officers of all Arms/Services except AMC (including AMC Non-technical), ADC, RVC and APS, as given in the succeeding paragraphs.

2. **Substantive Promotion.** To reduce the age profile and supersession levels in the Army as also to improve vertical mobility, promotion to the substantive ranks of officers will be made on completion of reckonable commissioned service as indicated below :-

<u>Rank</u>	<u>Reckonable Commissioned Service</u>
(a) Lieutenant	On commissioning
(b) Captain	2 years
(c) Major	6 years
(d) Lieutenant Colonel	13 years
(e) Colonel (Time Scale)	26 years

3. Officers will be eligible for grant of substantive rank of Lieutenant Colonel on qualifying promotion examination Part 'D'. Subject to this, seniority in service of officers will be protected until they complete 13 years reckonable commissioned service. Loss of seniority for non qualification in promotion examinations already awarded will continue to hold good. Qualification in Part 'D' examination will no longer be mandatory for grant of substantive rank of Major. Promotions accruing from Para 2 above shall also be subject to the officers fulfilling other criteria to be notified immediately by the Army Headquarters through Army Orders.

4. Those serving in the rank of Lieutenant Colonel (Time Scale) will now be eligible for grant of the substantive rank of Lieutenant Colonel. The existing rank of Lieutenant Colonel (Selection) shall remain applicable till the existing Lieutenant Colonels (Selection) are either promoted to the rank of Colonel (Selection) or Colonel (Time Scale) or are retired. No further consideration for promotion to the rank of Lieutenant Colonel (Selection) shall be made after 16 Dec 2004.

5. Those officers who could not be considered for promotion due to organisational constraints to the select grade rank of Lieutenant Colonel (as per earlier policy) will be provided

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protection of their seniority vis-a-vis their own batchmates while being promoted to the select grade rank of Colonel.

Colonel (Time Scale)

6. Officers not promoted to the rank of Colonel by selection may be granted the substantive rank of Colonel by Time Scale, irrespective of vacancies, provided they are considered fit in all other respects. The terms and conditions governing the rank of Colonel by Time Scale to these officers are as under:-
  - (a) Pay Scale. As applicable to Colonel Selection Grade which currently is Rs. 15,100-450-17,350.
  - (b) Rank Pay. Officers will be entitled to rank pay of a Lieutenant Colonel which currently is Rs. 1,600/- p.m.
  - (c) Other Allowances & Perks. Officers holding the rank of Colonel by Time Scale will be eligible for all allowances and other perks as applicable to Colonel Selection Grade.
  - (d) Age of Superannuation. All officers belonging to Judge Advocate General's Department, Army Education Corps, Military Farms, Special List Officers (Quartermaster, Technical, Record Officers) and Army Physical Training Corps (Master-at-Arms), Special Commissioned Officers and Food Inspection Organisation cadre holding the rank of Colonel (Time Scale) will superannuate on attaining the age of 57 years. Officers holding the same rank in other Arms/Services will superannuate on attaining the age of 54 years.
  - (e) Medical Criteria. The provisions of AO 23/1990 and amendments thereto applicable so far for the rank of Lt Col(TS) will now be applicable *mutatis mutandis* to the new grade of Col (TS).
7. Officers holding the rank of Colonel by Time Scale will be held against the authorisation of Lieutenant Colonel. Such officers shall, in precedence, rank junior to the following officers:-
  - (a) Substantive Colonel by selection.
  - (b) Acting Colonel by selection.
8. Detailed criteria and procedure for grant of substantive rank of Colonel by Time Scale will immediately be notified by the Army Headquarters through Army Order.
9. As a consequence of the implementation of the above orders the appointments in which Majors and Lieutenant Colonels can be posted are given at Appendices 'A' and 'B' to this letter. *Mutatis mutandis* PEs / WEs of units, formations and establishments will stand modified to the above extent till their revision in due course.
10. Various orders and instructions affected by the above decisions would be amended in due course.
  - 10(d) Age of Superannuation. All officers belonging to Judge Advocate General's Department, Army Education Corps, Military Farms, Special List Officers (Quartermaster, Technical, Record Officers) and Army Physical Training Corps (Master-at-Arms), Special Commissioned Officers and Food Inspection Organisation cadre holding the rank of Colonel (Time Scale) will superannuate on attaining the age of 57 years. Old term oplees of Intelligence Corps will also be eligible for grant of Colonel (Time Scale) subject to the condition that their age of superannuation will be governed by the terms and conditions of option exercised by them. Officers holding the same rank in other Arms/Services will superannuate on attaining the age of 54 years. - Amended vide MoD letter No. 10(1)/2004-D(GS-1) dt 15 Dec 06.

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11. These orders will take effect from 16 Dec 2004.
12. This issues with the concurrence of Integrated Finance vide their Dy No. 1058-A/PA/Fin(A)/04 dated 21 Dec 2004.

Yours faithfully,

(Bimal Julka)  
 Joint Secretary to the Govt of India

Copy to:-

- (1) The Controller General of Defence Accounts, New Delhi.
- (2) The Director of Audit, Defence Services, New Delhi.
- (3) The Controller of Defence Accounts (Officers), Pune
- (4) The Chief Controller of Defence Accounts (Officers), Pune
- (5) The Senior Deputy Director of Audit, Defence Service, Pune
- (6) The Deputy Director of Audit, Defence Service, Allahabad
- (7) The Adjutant General's Branch/PS2(a) - 200 copies
- (8) The Deputy Chief of the Army Staff, New Delhi - 5 copies
- (9) The Military Secretary, Army HQrs, New Delhi - 20 copies
- (10) Additional FA (V)

Copy signed in ink to:-

- The Controller of Defence Accounts (Officers), Pune.
- The Controller of Defence Accounts (Pensions), Allahabad.

Two copies:-

- D(GS-1), D(GS-II), D(GS-III), D(MS), D(Works-II), D(Navy-II), D(Air-III),
- D(Pen/Services), D(Pay/Services), Pen(c), D(QS), D(Med).

Copy also to:-

- PS to RM
- SO to Defence Secretary
- PPS to Secy Defence (Finance)
- PPS to Secretary (DP)
- PS to Addl. Secy.

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*relates to the terms and conditions of service for the Army Officers of all Arms/Services except AMC (Including AMC Non-technical),*

*ADC, RVC and APS, as given in the succeeding Praragraphs (as stated in Para 1 of the said letter) and in terms thereof relates to serving officers of the Indian Army and thus those who were not in service on the date 16/12/2004 cannot be extended the benefit of the policy detailed in letter No 18(I)/2004-D(GS-I) dated 21.12.2004.*

12. Further, the conclusions recorded in Para 23 and 24 read as under:

*23. The prayers made by the applicant thus cannot be granted, he having retired on 31.03.2024 after attaining the age of 53 years as per the then prevalent policy dated 03.09.1998 letter No. F.14(3)/98/D(AG).*

*24. The OA 2702/2021 is thus dismissed.*

13. From the aforesaid, it is clear that the benefit of the policy dated 21.12.2004 is not applicable to officers who were not in service prior to 16.12.2004. In view of the aforesaid judgment passed by the Coordinate Bench, we see no reason to interfere in the matter.

14. Accordingly, the OA along with MA is dismissed.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[RASIKA CHAUBE]  
MEMBER (A)