

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

3.

**OA 717/2026**

909928-S Ex Sgt Shiju V P ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Ram Niwas Bansal, Advocate  
For Respondents : Mr. R K Rastogi, Advocate  
Sgt Pankaj Sharma, OIC Legal

**CORAM**

**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER(J)  
HON'BLE LT GEN C P MOHANTY, MEMBER (A)**

**ORDER  
03.03.2026**

The applicant 909928-S Ex Sgt Shiju V P vide the present OA filed under Section 14 of the Armed Forces Tribunal Act, 2007 makes the following prayers:

- (a) *“To direct the respondents to rectify basic pay fixation anomaly in Basic Pay and the pension of the applicant by re-fixing his basic pay as per the more beneficial option to applicant, on implementation of 6<sup>th</sup> CPCs and subsequent on the principles affirmed by this Hon'ble Tribunal in OA 1182/2018, Sub Mahendra Lal Shrivastava Vs Union of India & Os.*
- (b) *To direct the respondents to make payment of arrear of salary accrue to him on such re-fixation of his basic pay*

*with the beneficial option, as per Hon'ble Tribunal Order in OA 1182/2018, Sub Mahindra Lal Shrivastava Vs Union of India & Ors.*

- (c) *To direct the respondents to pay interest @ 12%p.a. on the arrears accrue to him on arrears of salary and pension on the re-fixation of basic pay.*
- (d) *To pass any other appropriate order or grant relief as the Hon'ble Tribunal deems fit and proper under facts and circumstances and in the interest of justice, anytime during the proceedings of the case."*

2. The attention of the learned counsel for the applicant is drawn to the document placed on record as Annexure A-2 in which the comparison has been made by the applicant -Ex Sgt Shiju VP with Sgt Thomas. The learned counsel for the applicant, however, submits that the prayers made in the present OA are confined to seeking the grant of re-fixation of his basic pay as per the most beneficial option available on the implementation of the 6<sup>th</sup> CPC and subsequent to the principles affirmed by this Tribunal in OA 1182/2018 titled *Sub Mahendra Lal Shrivastava (Retd) Vs UoI & Ors.* In view of the said submissions made by the learned counsel for the applicant,

the OA is thus being adjudicated on the basis of the said submissions and confined to the prayers made by the applicant overlooking the contents of the documents placed on record as Anneuxre-A-2.

3. The applicant 909928-S Ex Sgt Shiju V P after having been found fit was enrolled in the Indian Air Force on 28.06.2005 and was promoted to the rank of LAC on 01.02.2007 in the transition period of the 6<sup>th</sup> CPC(i.e. 01.01.2006 to 11.10.2008) and was further promoted to the rank of Cpl on 01.02.2010 and thereafter to the rank of Sgt on 04.07.2018. The applicant submits on discharge from service on 30.06.2025, his basic pay was fixed at Rs.49,600/- whereas the basic pay of similarly placed Airmen during the same period was fixed at Rs.51,100/- and in order to get the pay anomaly rectified, he represented to the respondents on numerous occasions in the 6<sup>th</sup> CPC and subsequent re-fixation of pay and pension. The applicant further submits that he preferred a notice-cum-

representation dated 07.05.2023 for re-fixation of his pay as per the beneficial option which has not been replied by the respondents till date. The applicant submits that he could not exercise the option for fixation of his basic pay on promotion to the rank of LAC during the transition period of the 6<sup>th</sup> CPC resulting the fixation of his basic pay at lower scale than entitlement. The applicant further submits that though he had exercised the option for fixation of his pay as per the SAFI guidelines, however, his option was not acted upon by the respondents only on the ground of late submission of option form and thus the default option was selected by the respondents for fixation of his basic pay which was not beneficial to him.

4. The applicant has relied upon the order of the Armed Forces Tribunal (PB) dated 03.09.2021 passed in OA 1182/2018 titled *Sub Mahendra Lal Shrivatava Vs Union of India & Ors.* wherein the similarly placed applicants have

been granted stepping up pay at par to his coursemate and junior and a catena of other orders of the Armed Forces Tribunal.

5. We have examined numerous cases pertaining to the incorrect pay fixation in 6<sup>th</sup> 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. Furthermore, it is essential to observe that the order dated 03.09.2021 in OA 1182/2018 in case of *Sub Mahendra Lal Shrivastava(Retd) v Union of India & Ors.* and two other connected matters in OA 1314/2018 in *Sub Sattaru Lakshmana Rao v Union of India & Ors.* and OA 892/2019 in *Sub(TIFC) Jaya Prakash v Union of India & Ors.* has been 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 Shrivastava(Retd)* with observations in Para-24 and 25 thereof to the effect:-

“24. 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) 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) 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 W.P.(C) 5880/2025 Page 18 of 19 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.

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

7. Similarly, in the matter of incorrect pay fixation in the 7<sup>th</sup> 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:

*"12. Notwithstanding the absence of the option clause in 7<sup>th</sup> 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 7<sup>th</sup> 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.*

13. In view of the foregoing, we allow the OA and direct the Respondents to:-

(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 6<sup>th</sup> CPC. A Report to be submitted within three months of this order.

(b) Review the pay fixed of the applicant on his promotion to Naib Subedar in the 7<sup>th</sup> 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.

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

(d) Issue all arrears within three months of this order and submit a compliance report."

8. 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 6<sup>th</sup> 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.*

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 7<sup>th</sup> 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."*

9. In the light of the above considerations, the OA 717/2026 is allowed and direct the respondents to:

(a) Review the pay fixed of the applicant under the 6<sup>th</sup> CPC and the 7<sup>th</sup> CPC after due verification in a manner that is most beneficial to the applicant.

(b) To pay the arrears within three months of this order.

10. No order as to costs.

(JUSTICE ANU MALHOTRA)  
MEMBER(J)

(LT GEN C P MOHANTY)  
MEMBER (A)

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