

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No 597 of 2021**Thursday, this the 13<sup>th</sup> day of January, 2022**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**No. 9502739P Hav/AEC Bachchan Singh (Retd)  
S/o late Shri Raghunath Singh  
R/o Civil Lines (Police Line Road) Fatehgarh PIN-209601,  
District – Farrukhabad (UP)

..... Applicant

Ld. Counsel for the Applicant : **Applicant in Person**

Versus

1. Chief of the Army Staff, Integrated HQ of MoD (Army), Adjutant General Branch, Addl. Dte General Mp/MP-8 (I of R), West Block III, R.K. Puram, New Delhi – 110066.
2. Officer-in-Charge, AEC Records, PIN-980777, C/o 56 APO.
3. PCDA (Pension), Draupadi Ghat, Prayagraj – 211014.
4. Union of India, through Secretary to Govt. of India, Ministry of Defence, South Block, DHQ PO, New Delhi – 110011.

..... Respondents

Ld. Counsel for the Respondents : **Shri D.K. Pandey,**  
Central Govt Counsel.**ORDER (Oral)**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

“8.1 That the order of respondent No. 2 rejecting my claim for publishing Part II Order for Group ‘X’ trades (Higher Rate) pension dated 14.11.2019 (Annexure No. A-1) may graciously be set aside and rejected.

8.2 That this Hon'ble Tribunal may be pleased to order and direct the respondent No. 2 that they implement the decision/policy laid down in Annexure No. A 2 of respondent No. 1 by publishing Part II Order to grant higher rate of Group 'X' pension per month w.e.f. 01 Jan 2016 on which it was made operational for the Indian Army.

8.3 This Hon'ble Tribunal is further prayed that it may graciously be pleased to order and direct the respondent no. 3 (PCDA (P) that on receipt of requisite Part II Order regarding Group 'X' (Higher Rate) from respondent No. 2 shall make payment to me of Group 'X' trade of pension Rs. 6200/- per month alongwith arrears w.e.f. 01 Jan 2016 and interest @ 9% per month thereon by issuing corrigendum P.P.O."

2. The factual matrix on record is that the applicant was enrolled in the Army (Army Education Corps) on 05.08.1963 and was discharged from service w.e.f. 31.08.1978 (AN) under Army Rule 13 (3) II (V) being placed in medical category lower than 'AYE' after rendering 15 years and 25 days of service for which he is in receipt of pension. As per Govt. of India, Ministry of Defence notification dated 03.05.2017 orders were issued that Group 'X' (Higher Rate) pay is applicable for those pensioners/family pensioners who had been retired/discharged/invalided out from service/died in service or after retirement as on 01.01.2016. Accordingly, on 17.10.2019, applicant requested to respondent No. 2 for publication of Part II Order regarding AICTE Group 'X' (Higher Rate) pensionary benefits but it was rejected by respondent No. 2 stating that applicant is not entitled to the benefit of Group 'X' pension as he was discharged from service on 31.08.1978

and benefit of Group 'X' was to be extended to the eligible individuals who were in service taking effect from 01.01.2016. Being aggrieved, the applicant has filed present Original Application.

3. The applicant submitted that respondent No. 1 had issued a policy letter dated 28.07.2018 to all Records Offices for publication of Part II Order regarding AICTE Group 'X'(Higher Rate) to the individuals having a qualification equivalent to a Diploma recognised by AICTE. Hence, the affected individuals may be advised to approach their Record Office for publication of Part II Order if not published by Record Office till 31.08.2018. According to said decision of the respondents, applicant is eligible for the benefit of Group 'X' (Higher Rate) as applicant was having a B.Ed degree from Saugur University which is equivalent to AICTE diploma.

4. The applicant further submitted that on 17.10.2019 he requested to respondent No. 2 for publication of Part II Order regarding AICTE Group 'X' (Higher Rate) pensionary benefits but it was rejected by respondent No. 2 stating that applicant is not entitled to the benefit of Group 'X' pension as he was discharged from service on 31.08.1978 and benefit of Group 'X' was to be extended to the eligible individuals taking effect from 01.01.2016. He further submitted that actually, 01.01.2016 is the date of implementation and not a cut off date for awarding the benefits as held by the Hon'ble Apex Court in Civil Appeal No. 5591 of 2006, **KJS Buttar vs. Union of India & another**, decided on 31.03.2011 and also by several High Courts and Armed Forces Tribunals on this point of issue. Therefore, order passed by respondents No. 2 dated 14.11.2019 is unsustainable and

he is entitled for Group 'X' (Higher Rate) pension w.e.f 01.01.2016 onwards. He pleaded for grant of Group 'X' pension accordingly.

5. In reply, learned counsel for the respondents submitted that as per Govt. of India, Ministry of Defence notification dated 03.05.2017 orders were issued that Group 'X' (Higher Rate) pay is applicable for those pensioners/family pensioners who had been retired/discharged/invalided out from service/died in service or after retirement as on 01.01.2016. In other words, Army personnel who are on the effective strength of the Army, DSC, TA and APS as the case may be as on 01.01.2016 or thereafter are only authorised for grant of Group 'X'(Higher Rate) pay/pension as per Govt. decision on 7<sup>th</sup> CPC recommendation.

6. Learned counsel for the respondents further submitted that applicant is claiming Group 'X' pension stating that as per IHQ of MoD (Army) letter dated 18.07.2018, he is eligible for the benefit of Group 'X' pension. However, it is not correct as the ibid letter of MP 8 (I of R) only asking all Record Offices to publish Part II Orders regarding AICTGP Group 'X'(Higher Rate) having qualification equivalent to a Diploma recognised by AICTE in accordance with the Para 5(3) of Army Pay Rules, 2017. Since, the applicant was discharged on 31.08.1978, hence, he is not eligible for higher rate of Group 'X' pension benefits in accordance with above Govt. policy which is applicable w.e.f. 01.01.2016. In view of aforesaid facts, the plea of applicant in present O.A. is against the laid down Govt. Policy and does not sustain before the eyes of law, hence, he prayed for dismissal of O.A. being devoid of merit and substance.

7. We have heard both the parties and have perused the record.
8. We find that Group 'X' (Higher Rate) pay has been introduced under 7<sup>th</sup> CPC vide Govt. of India, Ministry of Defence notification dated 03.05.2017 and was applicable w.e.f 01.01.2016 to those who were in service or joined thereafter. The applicant was discharged from service on 31.08.1978, therefore, he is not entitled benefit of Group 'X' pension being pre-01.01.2016 retiree. Hence, we are of the view that his claim for grant of Group 'X' pension w.e.f. 01.01.2016 as prayed in O.A. is not sustainable and has rightly been rejected by the respondents which need no interference.
9. In view of above, O.A. has no merits, deserves to be dismissed and is accordingly **dismissed**.
10. No order as to costs.
11. Pending Misc. Applications, if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)  
Member (A) Member (J)

Dated: January, 2022  
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