

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No.916 of 2022**

Thursday, this the 02<sup>nd</sup> day of March, 2023

**“Hon’ble Mr. Justice Ravindra Nath Kakkar, Member (J)”**  
**“Hon’ble Maj Gen Sanjay Singh, Member (A)”**

No. 15383784N, Hav Sarbesh Kumar, Son of Shishupal Singh, R/o Village: Aswai, P.O. : Sarai Shaikh, Tehsil Office: Shikohabad, District -Ferozabad, Uttar Pradesh.

..... **Applicant**

Ld. Counsel for the **Advocate** Applicant : **Shri Manoj Kumar Awasthi,**

Versus

1. Union of India, through its Secretary Ministry of Defence South Block, New Delhi - 110011.
2. Chief of the Army Staff, Integrated Headquarter of Ministry of Defence (Army), South Block, New Delhi - 110011.
3. The Officer - In-Charge Records, Records Corps of Signals, PIN - 908770, C/o 56 APO
4. The Station Commander, Station Headquarters, Agra Cantt. Pin - 282001.
5. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad (Prayagraj).

.....**Respondents**

Ld. Counsel for the Respondents. :**Shri JN Mishra,**  
**Central Govt Counsel.**

**ORDER (ORAL)**

**“Per Hon’ble Mr. Justice Ravindra Nath Kakkar, Member (J)”**

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

- (a) *To issue pass an order or directions to the respondents to step up his basic pay at par with his course mates No. 15383764A Ex Hav Bikash Midya (Basic Pension fixed as Rs. 43600/-) and No. 15386931W Ex Hav Mukesh (Basic Pension fixed as Rs. 44900/-) alongwith @12% interest on arrear in light of M.A. No. 2234/2022 in O.A. No. 742/2021 Gp Capt. Ashok Kumar Versus Union of India & Others and O.A. No. 1923/2017 Wg Cdr Bharat Malik Vs Union of India & Ors, passed by Hon’ble Armed Forces Tribunal, Principal Bench, Lucknow.*
- (b) *To issue pass an order or directions to the respondents to grant of annual increment of year 2006, 10 days LTC claim for year 2019 and 2020 and 30 days annual leave encashment for year 2003.*

- (c) *To issue pass an order or directions to the respondents to fix the anomaly in the basic pay of the applicant w.e.f. 01.01.2006, 18.06.2007 and 01.01.2016;*
- (d) *Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstance of the case is also granted along with cost of the O.A.*

2. Briefly stated facts of the case are that the applicant was enrolled in Indian Army on 10.05.1994 and discharged from service on 31.05.2020 after rendering 26 years and 22 days of service under rule 13 (3) III (i) of Army Rule 1954. On retirement from service, he was issued PPO, mentioning Basic Pay Rs 42,300/- and Military Service Pay (MSP) as 5,200/-. However, one ex-serviceman in similar situation position junior to him was granted Basic Pension Rs. 43,600/- and MSP Rs. 5,200/-, resultantly, he was getting more pension than the applicant. Applicant filed representation against the anomalies and also for grant of LTC and Leave Encashment which was not granted to him. Being aggrieved applicant has filed instant O.A. with the prayer to step up his basic pay, grant of annual increment of year 2006, LTC and Leave encashment.

3. Learned counsel for the applicant submitted that applicant was enrolled in the Indian Army on 10.05.1994. He was promoted to the rank of substantive Havildar on 01.04.2010 and retired from service on 31.05.2020 after rendering 26 years and 22 days service in army. He was granted basic pension as Rs. 42,300/- and Military Service Pay (MSP) as Rs, 5,200 vide PPO No 1572020044386/0100 dated 29.01.2021/-. One Ex Serviceman Army No 15383764A Ex Hav/ACP Nb Sub Bikash Midya who was enrolled in Army on 04.05.1994. He was promoted to the rank of substantive Havildar on 01.06.2019 and discharged on 31.05.2020 after rendering 26 years and 28 days of service was granted Basic Pension as Rs. 43,600/- and MSP as Rs. 5,200/- resultantly, despite being junior to applicant, he is getting more pension than the applicant, which is discriminatory in nature. Applicant submitted representations from time to time but respondents neither corrected the pay band of applicant nor step up the pay of applicant and also not granted other allowances due. Learned counsel for the applicant submitted that in number of judgments passed by various Tribunals in similar matter relief has been granted and pay has been stepped up. He pleaded that respondents be directed to step up pay of the applicant and grant all dues to the applicant.

4. Per contra, learned counsel for the respondents submitted that applicant was enrolled in Army on 10.05.1994. He was promoted to the rank of substantive Naik on 01.07.2006 and Havildar on 01.04.2019 and retired from service on 31.05.2000. He had rendered 26 years and 22 days of service in the army for which he was granted pension. Applicant represented his case that he is getting less pension than his juniors. Pay and Accounts Office, PAO (ORs) Signals Jabalpur vide signal dated 08.12.2022 has clarified that, *“Regarding the facts alleged in para 4.4 of the Original Application, it is intimated that as per the records available with this office, after adjustment of OPTFIX, the basic pay of the applicant has been enhanced and fixed at Rs. 43,600/- with MSP fixed at Rs 5,200/- which is equal to the referred Ex Serviceman Ex Hav/ACP Nb Sub Bikash Midya”*. Arrears of the same has also been paid to the applicant vide FSDD No 21919 dated 21.11.2022. Case of issuance of Corrigendum PPO has also been processed with PCDA (P), Allahabad vide Signals Record letter dated 10.12.2022. On issuance of Corrigendum PPO, concerned authorities shall be intimated.

5. As far as post discharge claims regarding Basic Pay, LTC, Leave encashment of the applicant are concerned the

same have been forwarded to PAO (OR) Corps of Signals Record vide letter dated 05.12.2022 and its outcome is awaited. Learned counsel for the respondents submitted that basic pay of the applicant has been enhanced at Rs. 43,600/- and other claims of the applicant are under process with PAO (OR), Corps of Signals, Jabalpur and the same shall be paid as per rule within a short time. He pleaded that instant O.A. has no substance and is liable to be dismissed.

6. We have heard learned counsel of both the parties and perused the relevant documents available on record.

7. It is cardinal principle of law, as held by the Hon'ble Supreme Court in number of cases, that no junior in the same post, same group and same service can be granted more pension than his seniors.

8. In the instant case applicant was granted less basic pay than his junior. Applicant represented his case for granting basic pay equal to his junior and the same has been enhanced to Rs. 43,600 by PAO (OR) Corps of Signals and arrears have been paid to the applicant vide letter dated 21.11.2022. Further, PCDA (P), Allahabad has been directed to issue Corrigendum PPO enhancing basic pay to Rs. 43,600/- to the applicant. As far as grant of other allowances to the applicant is

concerned, in counter affidavit respondents have mentioned that matter is in process and necessary documents have been forwarded to PAO (ORs) Signals Jabalpur and amount due to the applicant shall be paid to him as soon as possible.

9. In view of the aforesaid discussions, PCDA (P), Allahabad is directed to issue Corrigendum PPO granting correct pension and PAO (ORs) Signals Jabalpur is directed to complete the whole exercise and grant amount due to the applicant as per rule as expeditiously as possible say, within four months from the date of presentation of a certified copy of this order. If the needful is not done within the stipulated time, the arrears accruing to the applicant by virtue of this order shall carry interest @ 8 % per annum from the due date till date of actual payment.

10. With the aforesaid directions, Original Application is **disposed of** finally.

11. No order as to costs.

**(Maj Gen Sanjay Singh)**  
**Member (A)**

**(Justice Ravindra Nath Kakkar)**  
**Member (J)**

Dated : 02 March, 2023

Ukt/-