

**Court No. 1**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**Original Application No 58 of 2022**

Wednesday, this the 30<sup>th</sup> day of November, 2022

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

JC-705049M Nb Sub Mahender Pratap Singh  
Presently posted with Command Hospital, Lucknow Cantt,  
Lucknow – 226002 (UP)

..... Applicant

Ld. Counsel for the Applicant: **Shri Vinay Pandey**, Advocate

Versus

1. Union of India, through, Secretary, Ministry of Defence (Army), DHQ PO, New Delhi-110011.
2. The Chief of the Army Staff, Army Headquarters, Sena Bhawan, New Delhi.
3. The Officer-in-charge, Records, AMC Lucknow.
4. Pay and Account Office (OR), AMC Lucknow.

..... Respondents

Ld. Counsel for the Respondents : **Dr. Shailendra Sharma Atal**,  
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:-

- “(a) Issue/pass an order or direction of appropriate nature to the respondents to harmonize the pay scale of the applicant with his junior.
- (b) Issue/pass any other order or direction to the respondents to re-fix the pay and allowances of the applicant after revision of his pay at par with his juniors.
- (c) Issue/pass an order or direction of appropriate nature to the respondents to award interest @ 24% per annum over the arrears accrued as a result of revision of pay and allowances of the applicant.
- (d) Issue/pass any other order or direction to the respondent as this Hon’ble Tribunal may deem fit in the circumstances of the case.
- (e) To allow the Original Application with cost in favour of applicant against the respondents.”

2. The factual matrix on record is that the applicant was enrolled in the Army on 16.10.1995. The applicant was promoted to the rank of Naik w.e.f. 10.09.2004, Havildar on 17.07.2003 and Nb Sub on 01.01.2020. The grievance of the applicant is that his junior, No. 13994743 Nk Jitendra Kumar Ojha, (now Nb Sub) who belongs to same trade and category is getting more salary than the applicant being a junior in enrolment as well as promotion from the rank of Naik, i.e. w.e.f. August 2006. The applicant represented his case but no action was taken by the respondents to step up basic of the

applicant in comparison to his junior. As a result thereof, applicant is getting lesser pay than his junior from the rank of Naik to Naib Subedar. Being aggrieved, the applicant has filed the present O.A.

3. Learned counsel for the applicant submitted that applicant was enrolled in the Army on 16.10.1995. The applicant was promoted to the rank of Naik w.e.f. 10.09.2004 and subsequently he was promoted to the rank of Havildar on 17.07.2003 and Nb Sub on 01.01.2020. The grievance of the applicant is that his junior, No. 13994743 Nk Jitendra Kumar Ojha, now promoted to the rank of Naib Subedar who belongs to same trade and category is getting more salary than the applicant being a junior in enrolment as well as promotion from the rank of Naik, i.e. w.e.f. August 2006. A comparative charge of applicant and his junior (Jitendra Kumar Ojha) is given as under :-

Ser. No.	Events	Nb Sub Mahendra Pratap Singh (Senior)	Nb Sub Jitendra Kumar Ojha (Junior)
1.	Date of enrolment	16.10.1995	04.03.1996
2.	Promoted as Naik	01.07.2004	01.08.2006
3.	Promoted as Havildar	01.09.2010	01.11.2011
4.	Promoted as Naib Subedar	01.01.2020	01.11.2020
5.	Basic pay in the rank of Naib Subedar	Rs. 44,900/-	Rs. 46,200/-

4. Learned counsel for the applicant further submitted that applicant represented his case in the year 2010 for re-fixation of his pay at par with his junior Nk Jitendra Kumar Ojha but no action was

taken by the respondents to remove the anomalies in pay and allowances of the applicant in comparison to his junior. He placed reliance on the judgment of the Hon'ble Punjab and Haryana High Court in the case of **Baljit Singh and Others vs. State of Punjab and Others**, CWP No. 1887/2016, decided on 01.11.2018 in which the Hon'ble Court has held that "*The only way to remove discrimination in the matter of pay is to step up the salary of seniors.*" He also placed reliance on the judgment of the Hon'ble Supreme court in the case of **Union of India and Others vs. P. Jagdish**, decided on 17.12. 1996 in which the Hon'ble Court has held that "*In such cases the pay of the senior officer in the higher post is required to be stepped up to a figure equal to the pay as fixed the junior officer in that higher post.*" Thus, he pleaded that basic pay of the applicant being senior should be stepped up to an amount equal to the pay fixed to his junior in the rank of Naik and to be revised further from the post of Naik to Naib Subedar and arrears be paid accordingly.

5. Learned counsel for the respondents though initially contended that applicant is getting his pay and allowances correctly and there is no discrepancy in fixation of applicant's basic pay, however, later on he conceded that applicant was promoted to the rank of Naik on 01.07.2004 and his junior Jitendra Kumar Ojha was promoted to the rank of Naik on 01.08.2006 and their basic pay as on 01.08.2006 was

fixed Rs. 7560/- and 7850/- respectively, thus, it is clear that applicant's junior was getting more pay than the applicant in the rank of Naik.

6. Learned counsel for the respondents further submitted that as per Para 7 of the counter affidavit, action is being initiated by the unit of the applicant as suggested by Pay Account Office, AMC Lucknow in terms of Para 9 of SAI 1/S/2008 to publish Part II Order of 'STEPUP' regarding stepping up of basic pay of the applicant from Rs. 7560/- to Rs. 7850/- w.e.f. 01.08.2006 so that anomaly in fixation of basic pay in the rank of Naik in comparison to his junior Jitendra Kumar Ojha is removed.

7. We have heard learned counsel for the parties and have perused the record.

8. From the above, we observe that applicant is getting lesser basic pay from the rank of Naik in comparison to his junior Jitendra Kumar Ojha as admitted by the respondents and action for stepping up of basic pay of the applicant from Rs. 7560/- to Rs. 7850/- in the rank of Naik w.e.f. 01.08.2006 is being initiated by the unit of the applicant to publish Part II Order of 'STEPUP' for stepping up of basic pay of the applicant and thereafter, necessary pay fixation will be done by the Pay Account Office, AMC Lucknow. With aforesaid observation, application needs to be disposed off finally with

necessary directions to the respondents to remove the anomaly of pay fixation of the applicant.

9. In view of above, Original Application is disposed off with a direction to the respondents to re-fix basic pay of the applicant at par to Rs. 7850/- w.e.f. 01.08.2006 in the rank of Naik in comparison to his junior, Jitendra Kumar Ojha and revise his pay further from the rank of Naik to Naib Subedar and pay the arrears accordingly. The impugned order, if any, passed by the respondents is set aside. The Respondents are directed to comply with the order within a period of four months from the date of receipt of certified copy of this order. Default will invite interest @ 8% per annum till actual payment.

10. No order as to costs.

11. Pending Misc. Application(s), if any, shall stand disposed off.

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

Dated: November, 2022  
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