

E-Court No. 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No 690 of 2021

Thursday, this the 3rd day of November, 2022

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

No. 14636160-Y Ex Nayak Ram Bilas
S/o Shri Mani Ram
R/o Village – Mau, Post – Adhiyari,
District – Gonda – 271308

..... Applicant

Ld. Counsel for the Applicant : **Shri Sher Bahadur Yadav**, Advocate

Versus

1. Union of India, through the Secretary, Department of Defence, New Delhi.
2. The Chief of the Army, Integrated HQ of MoD (Army), Sena Bhawan, South Block, New Delhi – 110011.
3. The Chief of Air Staff, Integrated Headquarters of Ministry of Defence, Sena Bhawan, South Block, New Delhi – 110011.
4. Directorate General of EME, MGO's Branch, Integrated Headquarters of Ministry of Defence (Army), DHQ , New Delhi – 110011.
5. Military College of Electronic and Mechanical Engineering (MCEME), Post – Trialcherry, Secunderabad (TS) – 500015.
6. EME Records, Secunderabad (TS) – 500015.

..... Respondents

Ld. Counsel for the Respondents : **Shri Pushendra Mishra**,
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. The Hon’ble Tribunal may kindly be pleased to quash the order dated 26.02.2021 passed by the opposite party no. 6 by which the application for grant of Group ‘X’ pay Rs. 6200/- has been rejected by him, annexed as Annexure No. 1 to this original Application.
- B. The Hon’ble Tribunal may kindly be pleased to direct the respondents for grant the Group ‘X’ pay scale being Diploma Technician, which is being paid to the other similar/below rank posts in the defence i.e. in Aviation, Artillery, Ammunition Technician, Technical Instructor Fire Control and etc., of Rs. 6200/- according to the 7th pay commission with all consequential benefits.
- C. To pay arrear of the promotional pay scale along with 18% interest from the date of his Group ‘X’ Pay Rs. 6200/- was due.
- D. To award the cost of the petition in favour of the applicant from the respondents.
- E. Any other or further orders which this Hon’ble Tribunal deems fit and proper under the circumstances be granted to the applicant.”

2. The factual matrix on record is that the applicant was enrolled in the Army on 25.10.1996 in the trade of Aviation Fitter. The applicant completed two years diploma from Military College of Electronic and Mechanical Engineering (MCEME) from July 1997 to July 1999. In 7th CPC, Group 'X' pay was revised to Rs. 6200/- per month for Technical Diploma holders but the applicant having trade of Aviation Fitter of two years Diploma has not been given the benefit of Group 'X' pay of Rs. 6200/- in his pension. The applicant moved a representation dated 04.05.2020 which was rejected by the respondents vide order dated 26.02.2021 stating that applicant is not entitled for higher rate of Group 'X' pay of Rs. 6200/- as his diploma course is not recognized by AICTE. Being aggrieved, the applicant has filed present Original Application for grant of higher rate of Group 'X' pay.

3. Learned counsel for the applicant submitted that applicant was enrolled in the Army (Corps of EME) on 25.10.1996 in the trade of Aviation Fitter. The applicant completed two years diploma from Military College of Electronic and Mechanical Engineering (MCEME) from July 1997 to July 1999. In 6th CPC, Group 'X' pay was introduced @ Rs. 1400/- for all Group 'X' trades. Later on, in 7th CPC it has been revised to Rs. 6200/- per month for Technical Diploma

holders and Rs. 3600/- for remaining trades. The Aviation Fitter of the Air Force and Army has equal technical qualification but the applicant has not been given the benefit of Group 'X' pay of Rs. 6200/- after having two years Diploma.

4. Learned counsel for the applicant further submitted that a daily order was published on 18.07.2018 by which Group 'X' pay of Rs. 6200/- has been extended to such trades which are not equivalent to the Technical Diploma while the Aviation Fitter has been left by the authority concerned even having eligibility of getting Group 'X' pay of Rs. 6200/-. The applicant has been discharged from service w.e.f. 29.02.2020. Thereafter, he moved a representation dated 04.05.2020 which was replied by the respondents rejecting prayer of the applicant vide order dated 26.02.2021. The order passed by respondents is unsustainable and he is entitled for Group 'X' (Higher Rate) pension w.e.f 01.03.2020 onwards. He pleaded for grant of Group 'X' pension of Rs. 6200/- accordingly.

5. In reply, learned counsel for the respondents submitted that applicant was discharged from service w.e.f. 29.02.2020 on being medically unfit for further service. The applicant is in receipt of service pension and disability pension w.e.f 01.03.2020. Earlier the applicant

filed O.A. No. 137 of 2020 before this Tribunal to set aside his discharge order dated 23.09.2019 which was dismissed vide order dated 27.07.2021. Now the applicant has filed present Original Application for grant of Group 'X' pay of Rs. 6200/-. In this regard, applicant submitted a representation to respondent No. 6 which was rejected vide order dated 26.02.2021 as he is not entitled to Group X pay of Rs. 6200/- under the provisions of para 5 of Army Pay Scale Rules, 2017 published in Gazette of India vide SRO 9 (E) dated 03.05.2017 as applicant's qualification is not equivalent to a diploma recognized by All India Council for Technical Education (AICTE). The applicant's technical qualification is not recognised by AICTE, hence he is entitled to lower rate of Rs. 3600/- for his Group 'X' trade.

6. Learned counsel for the respondents further submitted that Group 'X' pay of Rs. 6200/- / Rs. 3600/- is applicable to those JCOs/OR who are in service as on 01.01.2016 or thereafter and have a technical qualification equivalent to a diploma. As per IHQ of MoD (Army) letter dated 18.07.2018, applicant's trade does not fall within the list of trades which are eligible for higher rate of Rs. 6200/-. The applicant also not acquired master Technical Diploma in his trade equivalent to AICTE from MCEME, hence he is not entitled for higher rate of Group 'X' pay of Rs. 6200/- being not having a technical

qualification recognised by AICTE as per policy in vogue. In view of aforesaid facts, the relief sought by the applicant in present O.A. is against the laid down Govt. policy and does not sustain before the eyes of law, hence, Original Application be dismissed being devoid of merit and substance.

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

8. We find that Group 'X' (Higher Rate) pay has been introduced under 7th 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 technical trade of the applicant to which he belongs does not fall within the approved list of trade/category as issued by IHQ of MoD (Army) letter dated 18.07.2018. The qualification/technical diploma course of the applicant is also not recognized by AICTE, hence, applicant is not entitled to the benefit of higher rate of Group 'X' pay of Rs. 6200/-.

9. In view of aforesaid, we are of the view that his claim for grant of higher rate of Group 'X' pay of Rs. 6200/- as prayed in the Original Application is not sustainable and has rightly been rejected by the respondents which need no interference.

10. Resultantly, Original Application deserves to be dismissed and is accordingly **dismissed**.

11. No order as to costs.

12. Pending Misc. Applications, 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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