

Form No. 4  
{See rule 11(1)}  
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, MUMBAI

O.A. No 111 of 2018

**Brig LV Ramkrishna (Retd)**  
By Legal Practitioner for the Applicant

Applicant

Versus

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>17.10.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>Heard Ms. Anamika Malhotra, learned counsel for the respondents and perused the documents available on record.</p> <p>Applicant was commissioned in Indian Army on 01.06.1955 and retired from service on 30.09.1987. As per 4<sup>th</sup> CPC pay fixation, rank of Brig Rs 1200/- was not added. Applicant sent his particulars for revision of pension but he was informed vide letter dated 31.07.2017 that '<b>since there is no change in already drawn basic pay after rank pay revision, no arrears are admissible in his case and therefore no LPC has been generated and forwarded to PCDA (P) Allahabad for pension revision</b>'. Applicant has filed</p>

instant O.A. with the prayer to re-fix his pay from 01.01.2006 in Brig rank at maximum of 4<sup>th</sup> CPC Pay scale i.e. Rs. 5100/-, Rank Pay Rs. 1200/- + 20% of emoluments and pay the arrears upto date of retirement i.e. 30.09.1987, without deducting any amount and after adding DA and re-fix pension and gratuity on the basis of his revised LPC, and pay arrears after adding D.A. as applicable during the relevant period. To re-fix his pension in Brig rank at maximum of 5<sup>th</sup> CPC Pay Scale, i.e. 50% of Rs. 18050/- + Rank Pay Rs 2400/- + 40% DA of emoluments + DA + interest @ 6% p.a. from 01.01.2006 and to regulate future monthly payment of the pension and gratuity on the basis of pension in terms of judgment of Maj AK Dhanapalan passed by Kerala High Court.

In reply, learned counsel for the respondents has submitted that applicant superannuated from army on 30.09.1987. However his LPC was found attached with the particulars of officer which showed that he was in receipt of maximum pay i.e. Rs 5100/-. Under any circumstances no arrears stand accrued in his credit and accordingly, the same was intimated to the applicant. As per input received from MS Branch, IHQ, New Delhi, applicant is in receipt of basic pay of Rs. 5100/- + Rank Pay Rs 1200/- as on date of retirement i.e. 30.09.1987. Applicant got substantive promotion to the rank of Brig on 19.10.1979 and served for more than 6 years in the rank of Brig prior to 01.01.2006. Applicant was drawing pay Rs 5100/- + Rs 1200/- as on 01.01.1986 which is maximum of pay in integrated scale of 4<sup>th</sup> CPC i.e. 2300 –

100 - 3900 – 150 – 5100. No rank pay element of Rs 1200/- was deducted at the time of 4<sup>th</sup> CPC pay fixation.

Learned counsel for the respondents further submitted that inadvertently, in terms of GOI, MoD letter dated 27/12/2012, rank of the applicant was shown as Col instead of Brig as on 01.01.1996. On review of pay fixation it came to light that officer was not entitled for rank pay arrears as no rank pay element of Rs 1200/- was deducted from the total emoluments arrived on 01.01.1986.

PCDA (P), Allahabad issued letter dated 31.07.2017 in implementation of the Hon'ble Apex Court order dated 04 September 2012 and directed re-fixation in revised scale of initial pay as on 01.01.1986 without deduction of rank pay. As per this letter pay was to be fixed at next level in the integrated scale or at the minimum pay given for the rank whichever is more subject to maximum 5100/- of the scale and rank pay will be in addition to the pay so fixed. Pay scale of Brig, prior to IC CPC was 2200 – 100 – 2400. As per formula the pay of Brig at 2200 – as on 31.12.1985 was revised to 4200 – 4500 and 5100 respectively as on 01.01.1986. As per provisions of para 6 (c) of SAI 1/S/1987 which states that if amount computed is more than the maximum of the scale, the revised pay of Brigs as on 01.01.1986 is required to be fixed at 5100/- at maximum of scale.

In compliance of the Hon'ble Supreme Court decision dated 04.09.2012, calculation of rank pay arrear were carried out. Issue of revised LCP was not

required as there was no change in last pay of the officer since he was already reached maximum pay of Rs. 5100/- of the integrated pay scale. Adding 20% of emoluments i.e. Rs 5100 + 1200/- for pension purpose is not covered under any Government order. Applicant has given a declaration stating that **“any excess payment that may be found to have been made as a result of incorrect fixation of pay or any excess payment detected in the light of discrepancies notices subsequently will be refunded by me to the Govt either by adjustment against future payments due to me or otherwise through MRO deposited into Treasury in favour of PCDA (O) Pune.”**

In view of above, PCDA (P) Allahabad is directed to look into the matter and calculate pension of the applicant in terms of 5<sup>th</sup> and 6<sup>th</sup> CPC orders and in terms of judgment of Hon'ble Kerala High Court dated 05.10.1998 passed in OP No 2448 of 1996, Maj AK Dhanpalan (Retd) and grant amount due, if any, to the officer.

With aforesaid directions, O.A. is disposed of finally.

Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

UKT/-