

(2019) 09 AFT CK 0020

In the Armed Forces Tribunal

Case No : Original Application No. 1084 Of 2019

Sournen Bharati

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 19-09-2019

Acts Referred:

Citation : (2019) 09 AFT CK 0020

Hon'ble Judges : Sunita Gupta, J;Philip Campose, Member (A)

Bench : Division Bench

Advocate : I.S.Singh, K.S.Bhati, Dinkar Adeeb

Final Decision : Disposed Of

Judgement

1. By way of this OA. the applicant seeks fixation of his pay as granted to the applicant in OA 72/2018.

Heard

Admit

Issue notice to the respondents in the OA

Notice is accepted by Mr. K S.Bhati, Sr CGSC on behalf of the respondents. He submits that subject to verification. appropriate orders may be passed.

As such, vide separate order. OA stands disposed off.

Aggrieved by the action of the respondents, whereby the applicant perceives that his pay has been fixed wrongly at a lower scale than what was

authorised by the 6th Central Pay Commission (6th CPC), the applicant, a Havildar/Personal Assistant (Hay/PA) of the Clerical Cadre of the Army

Service Corps, has filed this O.A with a prayer to direct the respondents to grant

him the same benefit of fixation of basic pay as was granted to a similarly situated applicant (Hay/PA Kultar Singh Chauhan) in O.A No. 72 of 2015 vide order dated 09.12.2015 by the Armed Forces Tribunal (PB), New Delhi and accordingly fix the applicant's basic/minimum pay at Rs.8,560/- instead of Rs.7,910/- with effect from 01.01.2006 in accordance with SA1/1/5/2008 with regard to 6th CPC recommendations.

2. The facts germane to the case are that the applicant was enrolled in the Army on 03.07.2000 in the Armoured Corps in Group 'Y' as Clerk (GD).

He was re-mustered as a Combatant Personal Assistant in Group 'X' with effect from 16.02.2005 and subsequently promoted to the rank of Havildar on 16.02.2005 i.e. before 01.01.2006. Prior to the implementation of the 6th CPC, the applicant was getting the basic pay of Rs.4,250/- in Group 'X'.

After the implementation of the 6th CPC, his basic pay was fixed at Rs.7,910/- by applying the fitment formula ($\text{Rs.4,250/-} \times 1.86 = 7,905$ rounded off

to the next tens Rs.7,910/-) plus Grade Pay of Rs.2,800/-. The applicant has stated that the revised minimum pay of Havildar under Para 13 of

SA1/15/2008 has been prescribed at Rs.8,560/- and that he is entitled to the benefit of re-fixation of his minimum pay @ Rs.8,560/-. The applicant's

representation was rejected vide speaking order dated 26.04.2019 by the respondents on the ground that he is not entitled to pay fixation at the basic

pay of Rs.8,560/- with effect from 01.01.2006 in accordance with the provisions laid down in SAI/1/5/2008.

3. Learned counsel for the applicant states that the applicant's case for correct pay fixation @ Rs.8,560/- per month with effect from 01.01.2006 is

covered by a catena of decisions, including the decision of this Tribunal in Alanoj Kumar v. Union of India and others (O.A No. 94 of 2013). In support

of his case, the learned counsel placed reliance on the following decisions of this Tribunal:

(i) Hay (PA) Thiyagu C v. Union of India and others (O.A No. 341 of 2015, AFT (PB) decided on 09.12.2015;

(ii) Hay (PA) Ku/tar Singh Chauhan v. Union of India and others (O.A No. 72 of 2015, AFT (PB) decided on 09.12.2015;

(iii) Hay (PA) Balber Singh v. Union of India and others (O.A No.137 of 2015, AFT (PB) decided on 09.12.2015;

(iv) Hay (PA) Daya Krishan v. Union of India and others (O.A No. 139 of 2015,

AFT (PB) decided on 09.12.2015;

Learned counsel for the applicant further states that the Hon'ble Apex Court, vide its order dated 17.07.2017, refused to grant leave to the

respondents in Ku/tar Singh Chauhan's case (supra) and thus the matter attained finality.

4. Learned counsel for the applicant also states that, as the case of the applicant is squarely covered by the aforesaid decisions, his pay is to be fixed

at the basic/minimum of Rs.8,560/- instead of Rs.7,910/- with effect from 01.01.2006.

5. In view of the various orders of this Tribunal relied upon by the learned counsel for the applicant, we hold that the applicant is entitled to the basic

pay @ Rs.8,560/- with effect from 01.01.2006. The respondents are directed to re-fix the pay of the applicant accordingly and pay the arrears within

four months from the date of receipt of a copy of this order, failing which the respondents will be liable to pay interest @ 8% per annum on the

arrears.

6. The O.A stands disposed of accordingly. No order as to costs.