

## **WELFARE OF INDIAN ARMED FORCES PERSONNEL**

**1**

### **Cataract Surgery**

At this time and for foreseeable future cataract surgery is the only viable treatment for cataracts. The most common type of cataract procedure performed today is called phacoemulsification, which is a cataract surgery, with foldable intraocular lens (IOL) implantation. Speaking about the surgery Dr Sanjeev Kumar, informs, "This procedure requires only very small incisions, and no stitches are needed at the end of surgery. Hand-held instruments are used to gain access to the cataract and removed from the eye in small fragments. A special device is then used to insert the flexible IOL, which unfolds inside the eye. The surgeon securely positions the IOL in the same location where the natural lens resided (directly behind the pupil)". In laser cataract surgery, a number of steps done with a computer for added precision. During pre-operative eye examination, patient can ask cataract surgeon for more details about different type of cataract surgery and procedure which would be more suitable for him. In addition to restoring vision that has been lost due to cataracts, cataract surgery can correct near sightedness, farsightedness and astigmatism. This means in addition to restoring clear vision , modern cataract surgery can also reduce your need for eyeglasses and contact lenses after the procedure.- Times of India, 2 Sep,2021

**2**

### **QR (Quick Response) Codes and financial fraud**

Though QR codes are a convenient mode of transaction, they can be misused by cybercriminals when people are not vigilant. QR code fraud is on the rise in India. The cases usually involve fraudsters telling people they will receive money on scanning a QR code. However, one can only make payments (not receive) using QR codes. Banks have advised people to not scan QR codes shared by any one unless they are making a payment. In addition to this , experts caution that one should not share PIN, OTP, etc with any one, while making payments through QR code. However, most people are not aware of the fact that when you scan a QR code, your digital information gets saved as well. While tech experts have raised privacy concerns over QR transactions, in the last two years, QR code related scams have also gone up in the country. Cyber crime unit of Delhi arrested 14 persons related to QR code fraud on 31 Aug,2021 and advised the people to be cautious while scanning a QR code sent for receiving payment or else you may lose money from your account.

**3**

### **RBI warns against frauds in guise of KYC update**

The Reserve Bank of India (RBI) has cautioned the public against falling prey to frauds in the name of KYC (know your customer) update and sharing key details such as debit and credit card details and OTP's. The usual modus operandi in such cases include receipt of unsolicited

communication, such as, calls, SMSs, emails among others from customers by urging them to share certain personnel account or login details, card information, PIN and OTP or install some unauthorized or unverified application for KYC updation using a link provided in the communication. Such communication are also reported to carry threats of account freeze or closure.

Once the customer shares information over call or message application, fraudsters get access to customer's account and defraud the person. RBI has therefore cautioned public not to share account login details, personnel information, copies of KYC documents, card information, password, OTP etc. with unidentified persons or agencies. Further, such details should not be shared through unverified/ unauthorized websites or applications. In case people receive any such requests they should get in touch with their bank.

The RBI also clarified that while the Regulated Entities (REs) are required to undertake periodic updation of KYC, the process of periodic updation of KYC has been simplified to a large extent vide circular dated May 10, 2021. Further RBI through circular May 5, 2021 have advised REs in respect of customers accounts where periodic updation of KYC is due and pending as on date, no restrictions on operations of such account shall be imposed till December 31, 2021, for this reason alone, unless warranted under instructions of any regulator/enforcement agency/ court of law among others.

## 4

## CRYPTOCURRENCY

Suddenly crypto-currencies are all over on social media, on our TV screens and on the frontpages of newspapers. It is time to understand the real advantages and disadvantages of this currency directly expressed by the experts who have been handling economic affairs of India. Shri D Subbarao, the former Governor of Reserve Bank of India in his article on 'Cryptocurrency' published in Times of India on 24 November, 2021 expressed his views and gist of the article is as follows.

According to Shri Subbarao, the Government and the RBI are not on the same page as far as regulation of cryptos is concerned. The biggest threat from the government's perspective must be that, absent of any regulation, the crypto world can become like the wild west with cryptos becoming conduits for illegal activity – money laundering, drug trafficking, financing of terrorism and defrauding of gullible investors. On the other hand, recognizing cryptos as an asset class and regulating them will allow the government to monitor the trading activity, tax the capital gains of investors and enforce some standards of transparency and a code of conduct.

Given this balance of concerns, Shri Subbarao has concluded that internationally regulatory responses to cryptos have fallen into three broad categories. The first is passive tolerance which involves prohibiting regulated institutions from dealing in cryptos without explicitly clarifying their legal status. RBI tried this option but Supreme Court struck it down. A second approach is a total ban like in China. But that model entails the risk of pushing the trade into invisible and illegal channels, possibly even greater damage. The third approach is to follow countries such as the UK, Singapore and Japan that have allowed space for cryptos to operate under a regulatory radar but without recognizing them legal tender. India will be well advised to follow this middle path.

## **JOINT RESPONSIBILITY OF CIVIL- MILITARY ADMINISTRATION AND WELFARE OF ARMED FORCES PERSONNEL**

### **Introduction**

In the present context, the Indian Armed Forces has a dual responsibility. Besides protecting the national border (15168 Kms of land and 5689 Kms of maritime border) and as a deterrent against any form of real or anticipated foreign aggression, it maintains internal unity and integrity of the nation by coming in the aid of the civil administration in emergent situations. It is often deployed by the civil authorities to crush communal riots and other major law and order problems. The Armed forces are called to restore the essential services in case of snap strikes, and to mobilize its resources in the aid of the nation on a war footing during grave natural calamities. The soldier is an important human element behind the grand military machine. He has the great honour to wear the country's uniform; and in turn, he is willing to lay down his life for the defense of the country. But like every human being, he does have his own problems and inclination, which are to be cared for by the nation. His problems have to be attended to with sincerity, sympathy and urgency. Then only nation can expect its soldiers to be ever prepared to sacrifice his precious life with pride and contentment.

Considering the magnitude of the Armed forces immense responsibility, it is logical to conclude that it is in the interest of the nation to accord priority to soldiers wherever necessary. Indeed no human life carries a price tag, and the least of all the soldiers. So the person, who is ever willing and eager to die for his nation, certainly deserves something more than common citizenry. Therefore, it is the sacrosanct duty of the bureaucracy- the executive arm of the government to look after the interest of the Armed forces personnel.

For ages Indian Armed forces were manned by professional soldiers who were always proud of being soldiers and sacrificed their life for the country without asking for any additional monetary benefits. Time have changed now and in a democratic and developing society with higher pay and perks, the wages has to keep pace with cost of living for all including personnel serving in the Armed forces. Thus the Government of was bound to constitute Pay commission from time to time to examine the existing wages for all government employees including Armed forces personnel. While in case of civilian employees, successive Pay commission did present a report to the satisfaction of the civilian employees, the military pensioners claim /demand could not be studied in a comprehensive manner for various reasons and therefore recommendation made by the Pay commissions particularly after 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> pay commission has in fact resulted into more anomalies and court cases instead of rationalization or parity in pay and pension between military pensioners retiring prior to or after 1986.

The Indian Armed Forces have deep rooted traditional values which they have followed for centuries. It is these traditional values and regimental tradition and training which makes them do supreme sacrifice for the defense of the country. While the soldiers were duly honored, rewarded and respected in the society prior to and after independence for the defense of the country both during war and peace, the situation has deteriorated in recent years. The soldiers have also been compelled

now to fight for their due pay, promotion and pension etc. and approach various court, tribunal both during service and after retirement. The veteran feel that the bureaucracy and political leadership is least interested in the welfare and morale of soldiers which is an important factor to win war both with in or outside the country. The demand for OROP was the result of this negligence and the soldiers continue to struggle to regain their lost pride and honor.

The service conditions peculiar to Armed forces affecting the pay, promotions and subsequently pension and terminal benefits must be understood by all those concerned about the welfare and morale of soldiers as well as its adverse affect on the performance of the Armed forces personnel. Criteria for promotion to the next higher rank keeps on changing in the Armed forces depending upon the vacancies available in all branches of three services at different point of time due to sudden expansion, reduction and reorganization undertaken to meet the security threat to the country. There can be no minimum service limit laid down for promotions. During emergency say in 1964-65, one could become Captain/ Major without any service limit. As a matter of policy all ranks in the Armed forces are also trained to hold two next higher ranks.

Unfortunately there is nothing known as Assured Career Progression (ACP) scheme and no career planning can be done in the Armed forces which often results into stagnation at middle and higher level affecting both officers and PBOR. Upgrading of post or downgrading of rank structure on ad-hoc basis is not the solution to ensure due time bound promotion on merit. Prior to 1986, certain post that were held by an officer of the rank of Major with 10-15 year of service, are now held by an officer of the rank of Colonel with 20-25 years of service as a result of up gradation of post.

As far as pay scales or pay band applicable to Armed forces personnel are concerned, broad parity between pay scales of Armed forces personnel and civilian Group 'A' officers in general and IPS officers in particular will have to be maintained. Revision of lower and higher pay scales and pay fixation without broad parity in terms of status vis-à-vis Junior, Senior and Higher administrative grade or class A,B,C,D of civil services will have serious repercussions in lateral entry on re employment of Armed forces personnel in various analogous post both in civil services and Central Para Military forces. The 6<sup>th</sup> CPC had rightly recommended Military Services Pay (MSP) for Armed forces personnel over and above pay band and grade pay. The MSP can be revised or modified for each rank by GoI whenever considered necessary and the military pensioners could be compensated for the financial loss they suffer due to non-existence of Assured Career Progression (ACP) scheme and non- implementation of Dynamic Assured Career Progression (DACP) scheme resulting into lower pay, promotion and subsequently retirement benefits.

Chairman Chiefs of Staff Committee (COSC) had recommended that grant of DACP scheme only to doctors would lead to resentment and not be in the interest of national security and smooth functioning of Armed forces. It will cause stratification of the officer cadre, based on differential in grade pay with consequent command and control ramification. DACP is currently applicable to technical services- doctors, dentist and scientists in central government services. Under DACP a doctor is suppose to get functional grade pay of Rs.8700/- ( equivalent to Director or Colonel) at 13 years and non-functional grade pay of Rs.10000/- (Joint Secretary level) at 20 years of service.

Joint consultative machinery for Central government employees had also represented to the 7<sup>th</sup> CPC for grant of OROP for all post to remove injustice done to them. The 7<sup>th</sup> CPC had also recommended that there will be parity between past and present pensioners with same length of service and pay scale held at the time of retirement. However, there is no justification to compare

Military service with civil service or even Central Para military forces who are governed by different set of civil service rules and conditions of service. Military service is governed by strict military law which even denies certain fundamental rights in the interest of professional soldiering and national security. Military service involves round the year training and preparation for modern day warfare in all kinds of terrain in any part of the world. Fitness of both men and weapons with highest level of proficiency has to be maintained all the time to be able to undertake any operation jointly with artillery, tanks, aircrafts and warships or independently by Army, Navy and Air Force at short notice and without even any warning.

Unlike civil service where one is available all the time to attend to his personnel problem and that of his dear ones round the year, a soldier's family is left alone to fend for themselves or be dependent on others for security of the family and property etc. In other words, it is not only the soldier but his family also sacrifices for the sake of the country. While in civil service, one can proceed on leave and be absent from duty at his own sweet will, the military service is for 24x365 days and no one is permitted to be absent from duty without written permission provided he can be spared from duty.

Military is a steeply pyramid like hierarchy where only 3 per cent officers reach the rank of Brigadier. Unlike civilian counterparts where pay rises irrespective of promotion, soldiers' pay is linked to military rank. Article 311 of the constitution gives full protection to AIS officers which is not available to Armed forces personnel. It was for this reason that military personnel were given 70% of the last pay as pension as against 30% to civilian employees prior to 1973. Since civilian employees have been moved to contributory pension scheme in 2004, military pensioners can now be given 70% of last pay drawn as pension in lieu of OROP and minimum guaranteed pension as and when pension is revised by the CPC.

### **Welfare of Armed forces personnel**

Indeed, the Armed forces occupy pre-eminent position in the country. The very existence and survival of the country as a nation primarily depends on the quality of its manpower and strength of the Armed forces. History is a witness to the fact that from the days of Chandragupta Maurya right up to the advent of the British Raj and even beyond, the military was the prime cementing force which maintained the unity and integrity of the empire or country. It is a matter of historical record that the rise and fall of the major empires in the world depended mainly on the strength, efficiency and functioning of their existing military machine.

The welfare and morale of soldiers is considered as one of the 'principle of war'. The aim of welfare, as taught to Indian Armed forces personnel, is to ensure that a soldier gets all his due entitlement in time i.e.

- (a) Food, shelter, pay, allowances and due promotion in accordance to existing rules and regulations.
- (b) His family is not harassed by any authority on any count and is given prompt necessary assistance by the authorities concerned to help get their claims, dues or enforcement of their legal rights. So that the soldiers remain free from worries while carrying out his duties in defense of the country.

(c) A soldier is paid all his terminal benefits, pension and medical facilities after retirement without any undue delay or harassment. Because a soldier who sacrificed his youth for the defense of the country under adverse conditions deserves to be treated with preference.

In case the soldiers fail to get their legal entitlement during service and after retirement, the welfare schemes undertaken on charitable basis may become totally irrelevant. This is also one of the main reasons, which has resulted into politicization of soldiers like scheduled caste, scheduled tribe and backward classes etc.

### **Welfare and Resettlement of Ex-servicemen**

Many brave soldiers of the Armed forces have made supreme sacrifice while defending the country during various wars and conflicts since 1947. These wars and operations have left many broken homes without a bread winner. A large number of Armed forces personnel have become disabled imposing severe handicaps on their capacity to maintain themselves and to support their families. Soldiers render yeomen service not only in times of conflict and calamities but also in peace time. They guard our land, sea and air frontiers round the clock under extremely hazardous conditions. They also undertake valuable service in aid to civil authorities to restore law and order and also render help in the event of natural disasters. On numerous occasions, Indian Armed forces have played an effective role in the United Nations peace keeping operations in various parts of the world. It is therefore mandatory for the Government to ensure that Armed forces personnel and their families are well taken care of both during peace and war.

The requirement of keeping our Armed forces young and active necessitates their early release/ retirement at comparatively young age. Each year about 55000 soldiers, sailors and airmen between the ages 35-40 retire or released from service and also transferred to reserve list. These men are young, physically fit and mentally alert, and have qualities of leadership, drive and discipline. Since compulsory retirement is necessary in the interest of service, resettlement of ex servicemen becomes moral responsibility of the Government. Befitting rehabilitation of the released Armed forces personnel contribute to a large extent towards the maintenance of high morale of serving personnel. It also motivates young men to get attracted towards a career in the Armed forces when they become aware that the terms and conditions of service are favorable in comparison to other professions and that the nation takes care of ex servicemen and their families.

### **Changing role of civil administration**

According to a paper by an IAS officer published by United Service Institution of India New Delhi in 1986, the following four major indicators had been identified to assess the role played by civil administration while dealing with matters concerning Armed forces personnel.

(a) The lack of adequate and ready response from the civil administration is the first indicator of the substantial erosion in the military-civil interaction. The soldiers has a growing feeling that he is not being attended to with much care. His pressing grievances are generally being ignored or looked into belatedly and in a slip-shod fashion. Whenever the soldier has some problem, he puts up his petition through the 'command channel'. The commanding officer normally sends a demi-official letter to the concerned civil authorities to look into the problem. Earlier, every such letter invoked a courteous and prompt response from the civil administration which are lacking today. And if reply comes after repeated reminder, it is usually not positive in its content.

- (b) Secondly, there has been a fall in the prestige and value of Armed forces personnel except during war, when soldiers are honored and even worshipped and thereafter forgotten. Such decline in the social estimation has reduced this once 'premier occupation' into a job of the 'last resort category'. Therefore, vacancies exist at various levels in the Armed forces due to non availability of right type of manpower.
- (c) Thirdly, the degree of erosion in the interaction pattern is also visible from the persistent family problems of the soldiers. The traditional social structure of joint family system breaking down coupled with the lack of adequate co-operation from civil administration, has heightened the insecurity in the soldier's family which affects both morale and performance of soldiers.
- (d) The fourth indicator is the mounting frustration among the soldiers. In a age of controls, quotas, permits and reservations, they do not get the kind of attention they used to get in the past. Since they neither have the money nor the time , either to bribe their way through or patiently await their turn, they feel anguished, angered and let down. Individually, when a soldier's problem remain unresolved for a long time, a feeling of resentment, relative deprivation and despondency builds up in his psyche. In extreme cases, this mental state leads to desperation and may even culminate in suicide.

Bureaucracy in a transitional society assumes an entrepreneurial role as an initiator of change. But presently it is unresponsive, marked by red-tape, rampant corruption and declining professional ethics. Having said this , one must hasten to add that praise or blame will do little to alter the situation, which must be attended to if the bureaucracy has to acquire a new sense of direction, its performance capability sharpened, and its waning credibility restored. In this context, the corrective measures shall have to be pursued with absolute sincerity, devotion and integrity, or else, if the present trend continues, the nations Armed forces will be surely be in a sorry state. There will be frustration, demoralization and covert unwillingness to sacrifice life or lead precarious life style, and an all round decline in the performance of the Armed forces.

Due to gradual democratization of the polity, control and direction on matters related to welfare of the Armed forces personnel have gone into the hands of far too many agencies, who are neither accountable nor trained to serve the personnel of Armed forces. This has resulted in steady neglect of welfare issues affecting Armed forces personnel.

Earlier it was said that military-civil interaction and cordial relationship was necessary for national security. This may have been true when the Armed forces enjoyed sufficient powers and authority to deal with civil matters affecting Armed forces personnel. But today in the democratic society and polity , the Armed forces personnel are totally dependent on the civil administration for all matters affecting their livelihood. This interaction is said to have been conducive to favorable action in the early years after independence. But ever since , the trend started towards gradual erosion in the harmonious interaction. As a result there has been change in the perception of the soldiers who feels that he is not getting due consideration by the civil administration.

### **Failing of civil administration**

With the changing social structure with in Indian society, the bureaucracy denies special privileges and preferential treatment to an honest and sincere soldier by taking refuge in the name of rules and procedure. However, bureaucracy will resort to all kinds of manipulations to help or favor particular person or parties who have the resources to keep them in good humor. A soldier is neither

able to bribe nor has any means to put political pressure on the officials for any kind of help or relief he is entitled to receive.

Failing of civil administration can also be attributed to low level of professionalism, inept handling of the major problems faced by the nation, inability to innovate and come up with imaginative solutions, lack of cost consciousness, extreme reluctance to take decisions and even neglect of routine administration which are left to be decided by the Account officer or Section officers at various level of the Department.

Further, as a result of proliferation of welfare and development program, the work load has increased at the level of Collector and Superintendent of Police at the district level. The number of ex- servicemen have also increased who can not be given personal attention by the district administration unlike during old days. The district administration now remains more preoccupied with the rights and relief available to SC's, ST's, religious minorities, landless laborers etc. Here the importance of experienced Zila Sainik Welfare officer with adequate staff and resources cannot be over emphasized.

The role played by local politician and rural leadership is also important who would generally look after the interest of their own group. The soldiers are apolitical and absent from rural scenario and therefore cannot identify themselves with any of the groups. This results into soldiers family not able to avail the benefit of other schemes universally applicable to all citizens. This job could be entrusted to qualified and dedicated welfare workers for soldiers and ex- servicemen.

### **Redress of grievances**

It had been reported a few years back that about 7000 petitions from ex servicemen were pending with the Ministry of Defence and another 350 are being received by the Prime Minister's office every month from the Armed forces personnel. In addition 6000 cases were pending in various courts and tribunal in the country.

Government of India may have realized by now that in spite of high power committees constituted from time to time such as High level committee to look into the problems of ex servicemen in 1984, Koshayari committee recommendations on OROP, Cabinet Secretary's committee, Judicial Committee of 2015 on OROP- there is no end to litigation and grievances of Armed forces personnel. In 2020 names of 198 retired Major General had been notified on the website of PCDA(O) Pune whose pension had not been revised w.e.f. 1.1.1996 for want of certain documents even after Supreme Court Judgment dated 9.9.2008 and MoD policy letter issued on 15 July, 2009. It is not known as to how many of the affected officers may or may not be living to claim their due pension. The procedure laid down for revision of pension in respect of those officers who retired prior to 1.1.1986 are also to be regulated as per policy laid down in MoD policy letter dated 27.5.1998. The worst kind of news was that serving officers of the rank of Major General had to approach the Court for correct fixation of their pay w.e.f. 1.1.2016. The problem of military pensioners has been discussed in detail in the following chapters.

The expert committee also observed that the representative of the MoD ( Finance), IFA set-up, the CGDA and the office of PCDA(Pension) were not enthusiastic with ideas for bettering and further sensitizing the system and generally kept on shifting the onus on the other agencies/department. Today the civilian employees are least interested in military pay, pension rules because they are themselves governed by different set of pay and contributory pension rules. Defence

Account Department (DAD) under Government of India headed by CGDA is responsible for financial advice, payment, accounting and internal audit in respect of expenditure and receipt of the Defence services and defence related organization such as DRDO, ordnance factories, coast guard and border road etc. Only an officer of Director level not necessarily from DAD who is well versed with pay, promotion and pension rules applicable to Armed forces personnel could do the job more efficiently and effectively provided official 'Manual' of rules and regulations are in place and available for ready reference.

## **Conclusion**

There is no end to non- payment of pension or illegally denying pension to all categories of pensioners including military pensioners in the country who are then forced to approach the high court, supreme court and tribunals etc. for grant of pension under the existing orders of the government. In most of the cases government is ordered to pay pension which may take 20-30 years time

It will be in the interest of the country to end all anomalies in pay promotion and pension rules including fundamental/subsidiary rules applicable to Armed forces once for all by notifying legally valid regulations. This can only be done by experienced people with up to date knowledge of existing pay, promotion and pension rules including fundamental/ subsidiary rules, constitution of India and court ruling given from time to time. Any other order notified in violation of constitution of India , court ruling is bound to create fresh anomalies and court cases. Service rules can not be laid down to benefit one group of employees and deprive another group employees with in same organization. Armed forces who remain fully occupied all the time to ensure internal and external security of the country can not wait for recommendations of Central Public Grievance commission to regulate rights of citizens for delivery of goods and services or Redress of Grievance Bill No.131 of 2011 and National Commission for ex- servicemen Bill 2015 etc.

Therefore fundamental pay, promotion and pension rules without any ambiguity can be drafted and notified for the Armed forces to implement present and future CPC report leaving no loophole for the record office, pay account office, pension sanctioning authorities and the departmental heads who act in a discretionary manner and without any accountability which is the main reason for grievances multiplying year after year. (*The article was also published in the Journal of the United Service Institution of India - July-September 2008 issue.*)

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### **DELAYED AND NON- PAYMENT OF MILITARY PENSION**

We all know many cases of Military Pensioners and Family pensioners who have been sanctioned due pension after 40-50 years of retirement or death of a military pensioner. The two recent example are that of Aanuli Devi (91 yrs) widow of a soldier who was killed during World War-II but was granted due family pension in the year 1917-18 only. Second case was that of Paruli Devi whose husband Gagan Singh had joined Army in 1946 but died in service and his widow was only 20. Paruli Devi then 82 was finally granted family pension in the year 2021 only after fighting for her claim for seven long years with the help of non- military personnel like retired Treasury Officer Dalip Singh Bhandari of Pithoragarh district in Uttarakhand state. The latest case is that of Sepoy Balwant Singh, a 97 year old World War II veteran from village Gidaniya District Jhunjhunu

Rajasthan who won a long personal battle on 9 Nov,2021 with the help of his counsel Col S B Singh (Retd.) when Armed Forces Tribunal Delhi allowed him war disability pension that was denied to him for the past five decades. Sep Balwant Singh had applied for the pension that the government introduced in 1972 which guaranteed 100% of the last salary drawn by Indian soldiers discharged from service because of disability in various wars since independence but the soldiers who lost their limbs during World War II were excluded from this pension scheme. Sep Balwant Singh's disability was 100% as he lost his left leg during World War II. Similar cases appear periodically in various newspapers which does not speak very well of the present status of the bureaucracy and civic governance in the country. What we do not know that hundreds of military pensioners/family pensioners fail to receive their due pension during their life time because they did not live long or did not get necessary assistance to claim for due pension during their life time in accordance to existing rules/procedure laid down by GoI and subsequently amended from time to time as a result of court ruling.

In a recent case a disabled infantry soldier Paramjit of the Sikh Regiment who died during the pendency of the petition was finally allowed disability pension till the date of his death and family pension thereafter to his widow Amarjit Kaur by AFT Chandigarh after 23 years of litigation. The soldier joined service in 1988 and was invalidated in 1993 due to his disability attributable/aggravated by stress and strain of military service.

Even after legal battle successfully fought individually or collectively in various courts or tribunal for correct entitlement of pension, all affected pensioners fail to get their due pension during their lifetime. In a 'Rank Pay Case' regarding re-fixation of pay w.e.f. 1.1.1986 in respect of officers (Lt to Brig), Supreme Court gave final order on 4<sup>th</sup> Sep, 2012 and GoI/ MoD issued final orders to implement the decision given by SC on 24<sup>th</sup> Jul,2014. How many of the affected officers or their NoK could have received arrears of their revised pay or pension after 28 years will never be known. Orders regarding re-fixation of notional pay and pension in respect of Major Generals retired prior to 1.1.1996 were passed by the SC on 9.9.2008 and orders to implement the same for re-fixation of pension w.e.f.1.1.1996 were issued by MoD on 15<sup>th</sup> July,2009. However, Pay Account office Pune was showing the names of 195 Major Generals' on their Website in 2020 in whose case the required action had still not been taken for want of certain information from the affected officers or their NoK. Similarly pre-2006 retiree Hav holding Hony Rank of Nb/Sub were granted pension payable to Nb/Sub w.e.f. 1.1.2006 on the orders of the SC on 20 May, 2015. The benefit of these orders may not have reached to all eligible pensioners/family pensioners/NoK because implementation of court orders by the PAO/PSA's/PDA's also takes time and many of the eligible pensioners may have died during the intervening period.

The author of this article in his official capacity during service as Zila Sainik Welfare officer in Uttar Pradesh (1983-99) and in his personal capacity helped at least over 150 pensioners to get their initial correct pension after a gap of 5-50 years. Hundreds of other military pensioners all over the country got their due pension with the help of 'Defence Services Pension Rules' (DSPR) compiled by me and published after 4<sup>th</sup>,5<sup>th</sup>,6<sup>th</sup>&7<sup>th</sup> CPC recommendations. However, there is no end to pension related grievances being received by GoI/MoD every month which have been reported to be around 1500 per month from military pensioners only.

Revised government orders are issued to implement recommendations of the successive pay commission report without going into the existing pension rules and implications for pensioners retiring at different point of time resulting into anomalies multiplying year after year. Further,

clarifications to original orders by GoI/MoD are issued by subordinate offices like PSA's, PAO's, Record offices who are not authorized to do so. Decisions on the petitions are given by subordinate offices in an arbitrary manner without careful consideration. AS a result of this large number of petitions continue to be pending with MoD, AFT, High Court and SC for final decision. Most of the pensioners die before getting their due pension. Unfortunately, even if a favorable decision is given by the highest court say after 10-15 years, the benefit of the same is not given automatically to other living pensioners similarly placed.

Today we have no regulations, only amendments/ clarifications are available to implement pension rules. Every government order issued by the GoI/MoD to implement the Pay Commission report ends with a line that- pension regulation will be amended in due course of time and second line reads that 'Hindi' version of the order will follow. The truth is that each paragraph of the pension regulations stands amended and superseded due to large number of revised orders, amendments and revised conditions laid down to implement the recommendations of 4<sup>th</sup>,5<sup>th</sup>,6<sup>th</sup> and 7<sup>th</sup> CPC and ruling given by the SC etc.

Original rules , regulations and Act enacted and notified prior to independence are there with reference to Military pensioners and the same continue to be in the statue book till to date. After independence the Pension Regulations were drafted and notified separately for the Army, Navy and Air Force. Subsequently the central pay commission decided to treat Armed Forces pensioners as one category of pensioners. Thereafter, all government orders issued to implement the pay commission report, especially after the Fourth Pay Commission, are referred to as Armed Forces pensioners.

Most of these orders issued by the MoD to implement revised pension rules /pensionary benefits are based on orders issued by the Ministry of Personnel PG and Pension. The requirement of the day is to draft a new pension regulation for the Armed Forces incorporating basic, amended and extended pension rules which should have approval of the Law Ministry. Otherwise , there will be no end to anomalies, amendments, clarifications being issued by the MoD on the one hand and confusion in the mind of pensioners, record offices, PAO's, PSA's and PDA's on the other hand.

Consolidated orders like implementation of CPC recommendation and periodical increase in Dearness allowance/relief etc. which are applicable to all category of central government employees including Armed forces, are issued by the Ministry of Personnel. Subsidiary orders are also issued by the MoD on their own to regulate special monetary/ pensionary benefits applicable to Armed forces personnel only. In the case of consolidated or one universal order issued by the Ministry of Personnel and adopted say by the MoD, subsequent amendments or clarification issued by Ministry of Personnel do not reach all concerned ministries for implementation. Similarly, if the orders issued by GoI is challenged in any court of law and declared illegal, the cancellation or amendment of the order issued by GoI do not reach to all concerned authorities including MoD in time for implementation. This invariably results into financial irregularities in payment of due pension on the one hand and court cases multiplying year after year.

Time given for implementation of orders has never been realistic. One of the government order says that action will be taken ' as usual' which is vague and can not be complied with to implement the orders in time. There are number of orders where the controlling authorities have directed that action will be taken by the affected pensioner within one month from the date of order issued which is impossible in a country of India's size. The controlling authorities need to

understand that GoI orders fail to reach even every PDA within a month and the pensioners come to know about the orders only after a gap of few months. It is one of the reason that many pension claims of the pensioners are being settled after a long period ranging from 5 to 50 years.

The Armed forces have failed to present their demand or claim with proper justifications based on law, changing service conditions and socio-economic conditions in the country. The service conditions do keep changing in the armed forces due to reorganization, reduction and expansion undertaken to maintain professional efficiency and battle worthiness of the Armed Forces to meet the variety of security threat developing around the country.

Early retirement is the requirement of military service. However, it is often forgotten that the officers including those allowed to proceed on premature retirement under the existing rules are placed on reserve list up to the age of compulsory retirement and are liable to be recalled to rejoin service as and when required by GoI. All military pensioners are not guaranteed re-employment after retirement. But some of them mostly PBOR who are given re-employment in government department and public sector undertaking could even earn two more pension under new/contributory pension scheme.

OROP was not the answer for the problems faced by military pensioners. Grant of military service pay was the first correct decision by GoI which will continue to be revised after every CPC report. Secondly grant of minimum guaranteed pension w.e.f. 1.1.1996 was also fully justified and should have been applied w.e.f. 1.1.2006 and again w.e.f. 1.1.2016. Armed forces personnel who are transferred to reserve list are entitled to pay applicable to the rank/grade held and promotions if they are recalled to rejoin service during emergency. It is not known as to how their rank, post, pay and service for promotion will be recalculated for revised retirement benefits after the release from second spell of service.

GoI has since withdrawn the weightage in service w.e.f. 1.1.2006 which was given to all ranks to compensate for early retirement. It will, therefore, be in national interest to give the benefit of reserve liability period which should be counted for revised pensionary benefits after the completion of reserve liability period. This will serve as a good incentive for Armed forces personnel to join service when recalled in an emergency. Under the existing policy those who seek premature retirement are not entitled to re-employment. In view of this, policy with regard to retirement, reserve liability and re-employment should be examined again in the larger interest of the Armed forces and national security.

Politicization of problems faced by Armed forces personnel can have serious consequences for the security of the country. Total apathy on the part of bureaucracy in matters pertaining to service conditions of government employees including Armed Forces personnel is clear from the fact that hundreds of petitions from the government employees are decided by the tribunals and the courts which may have taken 5 to 30 years. The Armed Forces Tribunal (AFT) were also established in the year 2007 with eight regional centers and principal bench in Delhi to grant speedy justice to serving and retired personnel of Armed Forces on matters related to service conditions and retirement benefits. The AFT has not been able to enforce its order or decision for compliance by the MoD because it does not have power of civil contempt to enforce its judgments. In most of the cases the aggrieved personnel of Armed forces are forced to approach Supreme court for necessary relief. The problems faced by Armed forces pensioners are bound to multiply when their claims are being

decided by civilian employees who are themselves governed by different set of service and pension rules.

The administrative orders issued to regulate the implementation of the policy decision are generally lengthy, vague and without caring for earlier judgments on service matters by various courts in the country and Article 14 (Right to equality) of the constitution resulting into fresh anomalies and court cases multiplying year after year. It will, therefore, be in the interest of the country to ensure that Armed Forces personnel are not allowed to become victim of administrative inefficiency. The government of India has to remove existing anomalies in military pension rules and notify revised regulation for Armed forces pensioners to get out of the present hopeless situation.

## **ANOMALIES IN MILITARY PENSION RULES**

### **Revision of Pay and Pension w.e.f. 1.1.1986 as a result of SC Judgement in a ‘Rank Pay Case’**

As a result of SC Judgement dated 4 September,2012 in a ‘Rank Pay Case’ applicable to Lt to Brig, MoD issued orders to implement the Judgement of SC on 27 Dec,2012 which was further amended vide MoD letter No.34(10)2013/D(Pay/Services) dated 24 July,2014 and mainly included the following for refixation of pay w.e.f. 1.1.1986 in accordance to SAI 1/S/1987.

- (a) Para 6 of SAI 1/S/1987 dated 26 May, 1987 was amended to read w.e.f. 1.1.1986 instead of as on 1.1.1986.
- (b) After the existing emoluments have been increased w.e.f.1.1.1986, the officer’s pay will be fixed in the revised scale Rs.2300-100-3900-150-4200-EB-150-5100, at the stage next above the amount thus computed as per para 6 of SAI 1/S/87. In addition to pay fixed, the officer will be eligible to the ‘Rank Pay’ for the rank held.
- (c) No change in SAI 1/S/1987 dated 26 May,1987 and SAI 2/S/1998 dated 19.12.1997.

Accordingly pay of all officers of the rank of Lt to Brig was required to be refixed w.e.f. 1.1.1986/1.1.1996 and in case of Lt Col (TS) the existing rules continued to be applicable till 1.1.2006.

- (a) Lt Col (TS) and Major were allowed Rank pay of Rs.600/- as per para 3(a) (ii) of SAI 1/S/1987.
- (b) Lt Col (TS) was equivalent to Major as per para 5(a) of SAI 2/S/1998 who were allowed the pay scale of Lt Col(S) w.e.f. 1.1.1996 but with Rank Pay payable to Major .
- (c) Lt Col (TS) was abolished w.e.f. 16.4.2004 and thereafter the pay admissible to Lt Col(S) as per 5<sup>th</sup>/6<sup>th</sup> CPC recommendation was extended to Lt Col (TS) w.e.f. 1.1.2006 and 1.1.2016 in the absence of revised scales for this abolished rank as quoted in the concordance table notified for Lt Col (TS) vide MoD letter No. 17(1)/2017(02)D (Pen/Pol) dated 17 Oct, 2018 for revision of pension w.e.f. 1.1.2016.

In case of officers who retired prior to 1.1.1986, their notional pay was also required to be refixed w.e.f. 1.1.1986 in accordance to SAI 1/S/1987 as amended from time to time and as per MoD policy letter No.4(3)/98D(Pen/Ser) dated 27.5.1998 for revision of pension/minimum guaranteed pension w.e.f. 1.1.1996. Even though MoD has notified necessary rules on 3 May, 2017 to regulate

the pay fixation of officers w.e.f. 1.1.2016 in the revised pay structure as per recommendations of the 7<sup>th</sup> CPC, fixation of notional pay in respect of those officers who had retired prior to 1.1.1986/1.1.1996 continues to be in dispute for revision of minimum guaranteed pension w.e.f. 1.1.1996/1.1.2006/1.1.2016. In case of Lt Col who retired prior to 1.1.1986 and were drawing Rs.1850/-, the notional pay as on 1.1.1986 would be as per SAI 1/S/1987 Rs.4350/- (without notional increment) or Rs.4500/- with one increment plus Rank Pay of Rs.800/-after SC judgement in a 'Rank Pay Case' whereas PAO Pune continued to indicate Rs.3900/- as pay plus Rank Pay of Rs.800/- as per their office pay fixation table notified in 1987 which should have also been amended in respect of officers (Lt to Brig) after the SC Judgement in the 'Rank Pay Case'. Further the PAO was not required to notify a fresh common pay fixation table but refix the pay/notional pay w.e.f. 1.1.1986 in respect of each individual officer because according to para 6 (j),(k) of SAI 1/S/1987 where the existing emoluments as calculated in accordance with sub-para (e) or (g), exceeds the revised emoluments so fixed in the case of any officer, the difference shall be allowed as personnel pay to be absorbed in future increases in pay.

### **Implementation of orders regarding OROP w.e.f. 1.7.2014**

As per GoI/MoD letter No. 12(1)/2014/D (Pen/Pol) dated 3 Feb,2016 issued to implement OROP w.e.f. 1.7.2014, maximum pension has been restricted to maximum term of engagement in case of Major only while in other cases pension has been fixed beyond the maximum term of engagement. OROP was not fully justified in the present form because service conditions and promotion policy are liable to change from time to time due to changing- organizational/operational requirement of the Armed Forces. The dispute about revision of OROP policy after every five years was decided by the Supreme Court in the month of Mar,2022 only. Revised orders for grant of OROP w.e.f. 1.7.2019 have since been issued. However, the pensioners continue to raise anomalies in the revised rates of OROP notified by the MoD. Similarly minimum service for promotion for Major and Lt Col rank stands amended to 6 years and 13 years from 11years and 16 years w.e.f. 16.12.2004. To what extent it has affected the pensionary benefits to past and present pensioners should also be examined and corrective measures taken for the sake of fairness and principle of natural justice. There were rules governing war time promotions which also needs to be clarified, if still existing or abolished. Pension is granted on the basis of last pay drawn w.e.f.1.1.1996 and not on the basis of last rank held and therefore OROP is not the answer to compensate military pensioners for their early retirement due to service conditions. Instead GoI should consider further improvement in the formula for grant of minimum guaranteed pension which was granted w.e.f. 1.1.2006.

### **Pension for acting and substantive rank**

The quantum of pensionary awards admissible to the commissioned officers acting or substantive of the Armed forces who became non-effective on or after 1 April, 1979 vide MoD letter No. B/40725/AG/PS-4(C)/1816/A/D (Pension/Services), dated 28 Sep,1979 were notified on the basis of standard period of service and fixed rate of pension. Para 2(b) of SAI 1/S/87 issued for pay fixation w.e.f. 1.1.1986 was also applicable to all officers holding rank both in substantive and acting capacity. However, the new pay fixation rules notified for revised fixation of pay w.e.f. 1.1.2016 are applicable to officers holding substantive rank only which needs to be clarified.

### **Pension for maximum term of engagement needs clarification**

PCDA(P) vide circular No.551 dated 28.12.2015 in para 3 had clarified that minimum pension can be granted for maximum term of engagement only. Since pension is granted for minimum period of 20/15 year service w.e.f. 1.1.2006 without any linkage to 33 years of service and weightage in service, the term of engagement also needs to be clarified for the purpose of pension. Terms of engagement for all ranks of the Armed forces is fixed both in terms of age and standard period of service. MoD policy letter issued on 3.2.2016 to implement OROP scheme lays down that existing pension of all pre-1.7.2014 pensioners/family pensioners shall be enhanced with reference to applicable table for the rank in which pension with reference to actual qualifying service as shown in column-1 of the tables subject to maximum term of engagement for each rank as applicable from time to time.

Standard period of service can be extended by the government during emergency even beyond the age of compulsory retirement. Minimum period of service was laid down to earn full fixed pension prior to 1.1.1986 for the rank held by the pensioner. An officer, say a Lt Col may complete even 30-35 years of service on reaching the age of retirement. The weightage in service granted for pension stands withdrawn w.e.f.1.1.2006. The question, therefore, arises as to why the pension should be restricted to maximum term of engagement.

### **Dependent pension (ordinary)**

Father and mother are entitled to dependent pension in case the son dies while in service as bachelor in accordance to MoD policy letter No.1(15)87/D(Pen/Pol) dated 30 Oct,1987. Para 16 of the policy letter lays down that dependent pension shall be admissible to the parents/eligible brothers and sisters (in the absence of the parents) of the deceased officer at the rate equal to 50% of the notional Special family pension that would have been admissible, if they were largely dependent on the deceased officer for support and are in pecuniary need. The existing condition regarding means limit is dispensed with and this has been repeated in MoD policy letter No.1(2)/97/D(Pen-C) dated 31 Jan, 2001 for grant of dependent pension w.e.f.1.1.1996.

Even though existing condition regarding means limit has been dispensed with, PSA's have been denying the dependent pension on the ground that the parents are already drawing pension. This needs to be examined and a clarification should be issued for compliance by all concerned authorities. Parents rich or poor , drawing pension or not, are always dependent on their children for support and dependent pension should not be denied to parents whose only son may have died as bachelor. Dependent pension already stands reduced to 50% of the notional Special family pension that would have been admissible to the widow if the son was married.

### **Compensation for delayed payment of pension**

Reserve Bank of India have issued instructions through its Master circular dated 1 July,2010 to pay compensation to the pensioner for the delayed payment of pension w.e.f. 1.10.2008 by the Bank automatically without waiting for any application from the pensioner. Similarly GoI/MoD should also issue standing orders to PSA's to sanction compensation to the pensioner for delay in sanctioning and payment of pension by the PDA's. Govt of India has since notified new pension rules in 2021 which lays down that interest will be paid for delayed pension and responsibility will also be fixed for delaying payment of pension. Implementation of this rule is yet to be seen on the ground.

### **Reemployment with or without terminal benefits**

Large number of ex-servicemen, who get re-employment in civil services, do earn second and third pension on superannuation at the age of 58/60yrs and together draw higher pension as compare to other ex - servicemen of the same or higher rank who fail to get reemployment and draw only one military pension. Pay during reemployment in Central/State government department is regulated in accordance to para 525 and 526 of Civil Service Regulations (CSR). Though military pension is taken into consideration for fixation of pay and no dearness relief is paid with military pension during the period of reemployment, no pension / gratuity is paid to the reemployed officers on superannuation at the age 58/60 years with more than 10 years service even though it is provided in the civil service regulations.

### **Title and terms used in rules and regulations**

It is common knowledge that every law or Act passed by Parliament starts with short title, extent, application, commencement and definitions of specified legal terms and words to be used for the application of that particular law, Act or Rules. The original title Military Pensioner/ Military service, which continues to be in all statutory books including Civil Service Regulations has been overlooked by the concerned authorities of Government of India and the Central Pay Commission without any official amendment or notification. The military pensioners are now being referred to as 'Armed Forces Pensioners'. However, beside the word 'services' at many places, the other words i.e. 'Defence Pensioners'/ Defence Personnel/Armed Forces Personnel has also been used in various orders issued by GoI/MoD. 'Defence pensioners' is in fact been used for civilian employees under Ministry of Defence. Orders issued to implement OROP on 3Feb,2016 refers to 'Armed Forces personnel'. This needs to be corrected through an official Gazette notification for uniformity and legality. 'Defence Services Regulation' are already in existence and Defence Services Pay/Pension rules (Army/Navy/Air Force) could be the right term. However, it should not be mixed up with civilian employees who are governed by different set of service/pay/pension rules.

### **Concluding remarks**

Finally, it is important to understand that unless the officials at various level including record offices/PAO/PSA's are fully conversant with the fundamental pay/pension rules and GoI/MoD orders issued to implement pay commission reports including amendments/clarifications issued from time to time, the problem faced by military pensioners will never end. Therefore, GoI/MoD will have to come out with updated pay/pension regulation and make it applicable w.e.f. 1.1.2016 for all Military pensioners with a provision of minimum guaranteed pension to all pre 1.1.2016 pensioners. The revised and updated rules/regulations should have no ambiguity and decisions given by the court should be taken into consideration and appropriately incorporated in the revised and updated pay/pension rules.

### **CASE STUDY OF AUTHOR'S OWN CLAIM FOR REVISED PENSION AS PER PAY COMMISSION REPORT**

#### **UPDATED STATEMENT OF THE CLAIM AS ON 1.12. 2024**

Non-payment of revised pension/ minimum guaranteed pension w.e.f. 1.1.1996/1.1.2006/1.1.2016 which should not be less than 50% of the minimum of corresponding pay of the scale of pay held by me due to upgradation from Major to Lt Col w.e.f. 5 June, 1981 and

drawing pay of Lt. Col (S) at time of premature retirement on 28 October, 1981 with reserve liability up to 31 Aug, 1991.

## **APPLICABILITY OF GoI/MoD ORDERS TO MY PENSION CLAIM**

### **Retirement with Reserve liability**

1. I was granted conditional premature retirement w.e.f. 28 oct ,1981 and transferred to Regular Reserve officers Class-X up to 31 Aug,1991 under Army Instructions 10/S/63 as amended from time to time vide AHQ Letter No. 38176/791/MS7C dt. 30 July, 81. I was liable to be recalled to join service, if required, by the Government of India and also liable to be punished under Army Act if I failed to obey orders. Further, I was not permitted to leave the country without the permission of Government of India during reserve service period.

### **Implication of Reserve Liability with comments**

2. India Reserve Forces Act 1888 Sec-5 lays down the liability of reserve forces to Military Law which lays, " Subject to rules and orders as may be made under Sec-4, a person belonging to Indian Reserve Force shall as an officer or soldier, as the case may be, be subject to Military Law in the same manner and the same extent as a person belonging to the regular Army. If recalled to join service , an officer is entitled to pay and allowances payable to Rank/Grade held by him at the time of retirement and also entitled to promotions as per eligibility conditions . Had I been recalled to join service any time before the date of my reserve liability i.e. 31.08.1991, non-implementation of upgradation, promotion policy from lower grade to higher grade and non-fixation of pay/pension in accordance to the rules before and after retirement could have created more complications for GoI /MoD to recall and re-deploy officers transferred to Regular Reserve Officers Class-X. To avoid such situation, it will be in the interest of MoD that clear cut rules/policy without any ambiguity are laid down to regulate pay fixation, seniority and promotion of officers on reserve list recalled to join service in future. Further, reserve service period should be counted for additional qualifying service for revision of pension after the completion of reserve liability period. Because weightage in years that was given earlier to calculate qualifying service under 33 years formula for pension has since been withdrawn w.e.f. 01.01.2006.

### **Upgradation policy from Maj to Lt Col (1980-83)**

3. I was upgraded from Major to Lt Col with higher selection grade pay scale (1800-50-1900) w.e.f. 5 Aug 1981 as a result of MoD policy letter No. 15(13)79/1061 dt 16.7.1979 and No.3(1)/80/D(MS/IS) dated 14.2.1980. Only extract of orders was provided by the office of PCDA(o) to the office of PCDA(P) on 10.6.2016. Full copy of the MoD No.3(1)/80/D (MS/IS) dt.14.2.1980, MoD policy letter No. B/25391/AG/PS Coord/1102/D (AG) dt. 5.3.1982 and letter No. 01450/MS8-C/2497/ S/D(MS) dated 17 Nov, 1982 (copy encl. A-5) issued to implement selection grade policy were made available by the o/o PCDA(O) only on 25.11.2021. Selection grade pay policy was authorized in the scale of 1800-50-1900 authorized for 20% of the strength of Major and in the scale of 2000-50-2100 was authorized for 10% of the strength of Lt. Col.

4. The up gradation was to be phased over a period of three years from the year 1980 in consultation of Ministry of Finance (Defence). The upgradation policy was not implemented in letter and spirit. Instead, MoD/ AHQ decided to bring down the minimum service laid down for Lt Col (TS) from 24 years to 21 years. As a result of this, those Majors approved for up gradation to Lt Col

were permitted to put on the rank of Lt Col on completion of 22 years of service and upgradation policy was forgotten.

5. Selection grade (NFU) was introduced in 1980 for the benefit of three regular courses who passed out together on 30 June, 1963 from Indian Military Academy Dehradun due to emergency in the country. It is these officers who served the country during 1965 and 1971 war but the government could not provide functional up gradation due to fixed vacancies even after approved by the promotion board.

6. It is clearly stated in MoD policy letter dated 14.2.1980 (copy encl. A-5) that it was up gradation from Major to Lt. Col. i.e. from lower to higher pay scale which is also a promotion as per clarifications issued by GoI from time to time regarding Selection Grade Pay scale which already existed in other Departments of GoI prior to 1.1.1986 and thereafter. However, the selection grade pay policy in the Army was implemented in 1983 only and in my own case orders were issued in 1984 and selection grade pay scale was granted to me w.e.f. 5 Aug, 1981 before my conditional premature retirement w.e.f. 28 Oct, 1981 with reserve liability up to 31 Aug, 1991.

7. It was clear from the above quoted policy letter dated 14.02.1980 that there was up gradation of Major to Lt. Col. during the period 1980-83. The pay scale applicable to Major/Lt. Col.(S)/Major granted selection grade prior to 1.1.86 were as follows :-

Rank	Pay scale	Minimum Service	Authority
Major	1300-1800	7 year	As per SAI I/S/87
Lt. Col(S)	1750-1950	14 year	As per SAI I/S/87
Major upgraded to Lt Col			
	1800-50-1900	15 year	MoD Letter dt. 14.2.1980, 5.3.1982 & 17.11.1982

8. In my case, orders regarding selection grade pay due to up gradation to Lt Col were issued by AHQ vide MS Branch letter No. 37030/SGP/Major/MS8B dated 01.10.84 and based on that authority revised LPC, indicating clearly Rs 1850/- as basic pay of the rank i.e. Lt Col, was issued by PCDA(o) vide their office letter No. Arch 1B/112324 dt 18.3.1985 . (Copy encl. A-9)

#### **Merger of pay scale with equal or higher pay scale**

9. Up gradation policy under MoD policy letter dt 14.2.1980 with higher selection grade pay scale was to be phased over a period of three years and therefore selection grade pay i.e. Rs1850/- drawn by me at the time of retirement on 28 oct, 1981 was rightly merged with identical pay scale (1750-1950) that was applicable to Lt Col(S) at that point of time. In 1981 Major with 24 years service were drawing Rs 1800/- as maximum basic pay whereas I was drawing Rs 1850/- as SGP after 18 years of service. Subsequently, service limit of 24 years was brought down to 21 years w.e.f. 31.07.1984 for grant of stagnation increment to Major who were allowed to wear badges of rank of Lt Col (TS) after 25/22 years of service but continued to remain equal to Major for all purpose including pay scale/rank pay/grade pay that was applicable to Major rank only.

10. Since no corresponding pay scale for selection grade was recommended by the 4th CPC, the department i.e. MoD was required to notify the merger of such selection grade pay scale either

with equal or higher pay scale for all purpose. In my case selection grade pay scale had already been merged in 1983 with pay scale (1750-1950) applicable to Lt. Col (S) and revised LPC was issued by PCDA(O) on 18.03.1985 indicating Rs.1850/- as basic of the rank i.e. of Lt. Col (S). (copy encl. A-9)

### **Rules applicable for revision/ refixation of pay in case of selection grade pay /pay scale**

11. Orders regarding selection grade pay/pay scale and applicability of rules for revision of pay etc. are notified by the DoPT and MoF from time to time for all departments under GoI for implementation. In this case the following orders were relevant which should have been referred to by the concerned authorities including Pay Account Office for notional fixation of pay w.e.f. 01.01.1986/ 01.01.1996.

(a) MoF, Deptt. of Exp. Letter no.7(36)B-III/88 dated 09.08.1988 regarding fixation of pay w.e.f. 01.01.1986 in respect of those drawing higher selection grade pay on personal basis.

(b) MoF, Dept. of Exp. letter no. 5(7)/E-III(A)99 dated 29.04.1999 which lays down that benefit of higher corresponding pay will also be given to those holding higher pre-revised selection grade pay scale on personal basis.

### **Promotion or Up-gradation policy**

12. Army officers Pay Rule-2017 notified by MoD on 3 May, 2017 has made it clear that promotion and up gradation is one and the same and non-functional up gradation shall also count for the financial benefits. This is in line with existing civil services pay rules. This time Army officers pay rules have been notified through an EXTRA ORDINARY GAZETTE NOTIFICATION dated 3 May 2017 by MoD/DoD so that PAO/Service Headquarters are unable to misuse their power in pay fixation like in a 'Rank Pay case' and subsequently for revision of pension etc.

### **Rules applicable for promotion/up-gradation from lower to higher pay scale**

13. Promotion means appointment of a member of the service to the next higher grade over the one in which he is serving at the relevant time. This has been also included in para-2(m)(Definitions) of Indian Administrative Service pay rules-2007. The same definition has also been adopted by the MoD. MoD vide gazette of India (Dept. Of Defence) notification dated 3 May,2017 file no. 1(8)/2016/D(P/S) wherein it is laid down that Lt Gen who were fit for promotion as Army Commander but overlooked due to lack of requisite residual service shall be granted pay in level- 17 on non-functional basis and this non-functional up-gradation shall count for all financial benefits associated with level-17 but shall not count for other privileges associated with the post of Army Commander. Para-10, 2(a) & (b) of the notification also clarified that the appointment, promotion or up-gradation is one and the same. Para-12 of the notification also says that promotion and up-gradation is one and the same. The issue also came up before SC and a ruling given in the Supreme Court Judgement (2011) 9 SCC 510 lays down that if minimum service is fixed, vacancies are also fixed and screening is done before up-gradation then the same will be considered as promotion. The MoD has rightly implemented the ruling given by the SC. Therefore, financial benefit of up-gradation from Major to Lt Col could not been denied to me by any authority.

### **Revision of pension w.e.f. 01.01.1986 in case of pre-86 retiree officers**

14. As against slab formula, the pension of pre-86 pensioner was rationalized and re fixed w.e.f. 1.1.86 on the basis of 33 years formula, last pay and pension drawn at the time of retirement (and not

on the basis of last rank held) as a result of 4th CPC recommendations in accordance to GoI/MoD letter No. 1(4)/87-D(Pen/Ser) dt 12 May, 87 and 27 July, 87 which is also quoted in PCDA(P) office letter No. G1/M/43868 dated 27.02.1989 addressed to me for rationalization/revision of pension w.e.f. 01.01.1986. and my pension was also accordingly revised to Rs.1596/- w.e.f. 1.1.1986.

### **Interpretation of rules**

15. Selection grade pay was abolished w.e.f. 1.1.1986 as a result of 4<sup>th</sup> CPC recommendations and there is no mention of the same in SAI 1/S/87 dt. 26 May, 1987. My case had nothing to do with Lt Col (TS) which was granted to Majors after 24 years in 1981 whereas I was upgraded to Lt Col with higher selection grade pay scale (1800-50-1900) with pay fixed at Rs 1850/- after 18 years of service and the same was rightly merged with identical pay scale (1750-1950) then applicable to Lt. Col(S) as per pay fixation rules and indicated in the revised LPC issued on 18.3.1985 as basic pay of the rank i.e. Lt Col(S). Lt Col(TS) were not given separate pay scale but stagnation increment to Major and allowed to wear badges of rank Lt Col(TS) after 25 years of service. Subsequently the service limit was brought down to 21 years service w.e.f. 31.07.1984 and allowed to wear badges of rank of Lt Col (TS) after 22 years of service. Even after 1.1.1986, Lt Col (TS) continued to be equal to Major only till 16.12.2004 for all purpose including rank pay/grade pay and pay fixation. SAI 1/S/87 dated 26.05.1987 and para 5(a)(v) of SAI 1/S/98 also clarified the position with regard to Lt Col (TS).

16. Once the original pension was re fixed and rationalized w.e.f. 1.1.1986 on the basis of last pay plus dearness pay merged with pay for pension, 'Rank' held at the time of retirement had no relevance. 'Rank' was applicable for grant of pension under slab formula prior to 1.1.86 and grant of weightage in service to calculate QS for pension at the time of retirement. The court have already ruled that 'Rank Pay' or 'Grade pay' is not part of pay scale. Since no 'Rank Pay' existed prior to 1.1.86 the same is added on notional basis only in all cases for revision of pension w.e.f. 1.1.96/1.1.2006 like Military Service Pay.

### **Action that was required to be taken by PCDA(O) and PCDA(P)**

17. PCDA(P) vide their office letter No. G-1/M/43868/VII dated 11.5.2016 (Copy encl. A-6) addressed to PCDA(O) in para 2 had informed that the last pay Rs.1850/- which I was drawing at the time of retirement pertains to Lt Col only as per SAI 1/S/87. In this letter PCDA(P) requested to PCDA(O) to intimate the notional pay as on 1.1.1986 for revision of pension w.e.f. 1.1.1996. Pension in respect of pre-1986 retiree officers was required to be revised and re -fixed w.e.f. 1.1.1996 in accordance to instruction laid down in para 5,6&20 of GoI/MoD letter No. 4(3)98 D(Pen/Ser) dt. 27 May, 1998.

18. In my case, being pre-86 pensioner, no fixation of pay was involved as on 1.1.86. Instead PCDA (O) was required to take action for updating of notional pay as on 1.1.86/1.1.96 in accordance to para 6 of MoD policy letter dated 27 May, 1998 and procedure laid down in SAI 1/S/1987 for revision of pay as per 4<sup>th</sup> CPC recommendations as amended from time to time and forward Annexure-IV in accordance to para 20 of MoD letter dt 27 May, 1998 to PCDA(P) for revision of pension w.e.f. 1.1.1996. After 22 years of protracted correspondence, the office of PCDA(O) took action and forwarded Annexure-IV as per MoD letter dated 27.5.1998 to the office of PCDA(P) on 25.11.2021 (Copy encl. A-7) but the same was found with factually wrong with false certificate and misleading information given in para 7-8 of Annexure-IV i.e. treating me as pre-1973 retiree and fixing notional pay at the minimum as on 1.1.1986 in the absence of records even though all

required details were available and shown in para 1 to 6 of Annexure-IV. Further PCDA(O) had arbitrarily shown my rank as Senior Selection Grade Major which did not exist.

### **Applicability of GoI orders**

19. GoI/Min of Per PG and Pension, Dept of Pen and PW vide their OM F. No. 45/86/97-P & PW(A)- Part -III dated 10.2.1998 issued necessary orders for implementation of Govt decision on the recommendations of 5th CPC. The same orders are quoted and adopted in letter and spirit by the MoD in their office letter no.4(3)/98D(Pen/Ser) dated 27.05.1998 issued to implement the decision for revision of pension w.e.f. 01.01.1996 in respect of pre-1986 retiree commissioned officers. In para-5 of MoD letter dated 27.05.1998 it was clearly laid down that the Govt has inter-alia accepted the recommendations of 5th CPC and the pension of all pre-1986 retiree may be updated by notional fixation of their pay as on 01.01.1986 by adopting the same formula as for the serving armed forces officers for the purpose of consolidation of their notional pension/family pension as on 01.01.1986 and thereafter they may be treated like those who have retired on or after 01.01.1986. Para-6 of MoD letter dated 27.05.1998 lays down that notional pay as on 01.01.1986 in respect of pre-1986 retiree officers will be fixed as per procedure laid down in SAI 1/S/87 and as amended from time to time in the same manner as was done for those officers who were in service as on 01.01.1986. No notional increments were allowed for the period from the date of retirement to 1.1.1986. SAI/ 1/S/87 stands amended as a result of supreme court judgment in a 'Rank Pay Case'. Accordingly the pay of an officer drawing Rs.1850/- prior to 01.01.1986 is to be fixed notionally in the integrated pay scale applicable to Lt. Col w.e.f. 01.01.1986. Para-20 of MoD letter dated 27.05.1998 lays down that Annexure- IV will be sent by the office of PCDA(O) to PCDA(P) indicating last pay drawn, pay scale held prior to 01.01.1986 and notional pay fixed as on 01.01.1986 and 01.01.1996 for revision of pension/minimum guaranteed pension w.e.f. 01.01.1996 by PCDA(P) accordingly.

### **Implementation of orders by PCDA(O)/PCDA(P)**

20. Since fixation of pay was not applicable in respect of pre-86 pensioners as on 1.1.86 for revision of pension w.e.f. 1.1.1996, PAO i.e. PCDA(O) was required to take action only for updating of notional pay and pension as on 1.1.1986. The total emoluments that were payable at CPI 608 prior to 1.1.86 against pay Rs. 1850/- was Rs.3835/- as per SAI 1/S/87 and notional pay could not be brought down to Rs. 3700/- from Rs 4,350/- or Rs.4500/- arbitrarily without following revised pay fixation rules laid down in SAI 1/S/1987 as per 4<sup>th</sup> CPC recommendations applicable w.e.f. 01.01.1986 and as amended after SC Judgment in the 'Rank Pay Case'. In this connection PCDA (P) letter No. G-1/M/43868/VII dt 11.5.2016 (Copy encl.A-6) addressed to PCDA (O) in para 2 had clarified that that the pay Rs1850/- which I was drawing at the time of retirement pertains to Lt Col only. However, notional pay Rs.3700/- as on 01/01/1986 shown by PCDA(O) in their office letter dated 12.10.1998 in accordance to MoD letter dated 27.05.1998 appears to have been worked out after deducting 'Rank Pay' i.e. Rs.800/- that was applicable to Lt Col (S) who were in service from the revised pay of Rs.4500/- fixed as on 01.01.1986. This was required to be corrected as per SAI 1/S/87 and as amended as a result of SC Judgment in the 'Rank Pay Case'.

21. PCDA(P) was to issue necessary Corr. PPO for revised and minimum guaranteed pension w.e.f. 1.1.96/1.1.2006/1.1.2016 which should not be less than 50% of the minimum of the corresponding pay scale of the scale of pay applicable to Lt Col(S) and held at the time of retirement. In this connection GoI/MoD letter No. 1(1)99/D (Pen/Ser) dt 7 June, 1999 was issued for grant of

minimum guaranteed pension w.e.f. 1.1.1996 which was based on Min of Per, PG and Pension letter No. 45/10/98 P & PW (A) dt 17.12.1998 quoted therein. Min. of Per again clarified regarding the post/scale of pay held by the retired government servant vide their office letter No. 45/86/97-P & PW (A) dt. 11 May, 2001 and amended their office letter dt. 17.12.1998 to read that pension of all pensioners (without any reference to post/rank held) irrespective of their date of retirement shall not be less than 50% of the minimum of the corresponding pay scale as on 01.01.1996 of the scale of pay held by the pensioner at the time of retirement. This has been repeated and implemented to grant minimum guaranteed pension w.e.f. 01.01.1996/01.01.2006/01.01.2016 by all departments of the central /state government in the country.

### **Rules applicable to pre-86 retiree officers after 1.1.1986**

22. As per para 5 of MoD letter No. 4(3)98D (Pen/Ser) dt 27 May 1998 and Para 6.1 of MoD letter No.17(4) /2008(1)/D(Pen/Ser) dt. 11.11.2008, all pre-86 retirees for the purpose of pension as on 1.1.1996/1.1.2006 are to be treated alike those who retired on or after 1.1.86. Therefore, amendment to SAI 1/S/87 issued vide GoI/MoD Letter No.34(6)2013/D(Pay/Ser) dt. 27 Dec, 2012 and letter No. 34(10)2013/D (Pay/Ser) Dt. 24 July 2014 are equally applicable to me for revision of notional pay on the basis of corresponding pay scale as on 1.1.96/1.1.2006 as per court ruling in the 'Rank Pay Case.'

### **Direction given by the Supreme court**

23. As a result of long drawn legal dispute over "Rank Pay Case", the SC in CONMT,PET (c) No.328 of 2013 and transfer petition (c) No.56 of 2007 dt.18 Aug 2015 had given final direction that affected pensioners can approach the concerned authorities for the redress of grievances and avoid further litigations. My claim to correct revision of pension w.e.f. 1.1.96 /1.1.2006 has been under correspondence with PCDA(O) since 3.11.1999 when the matter was referred to the o/o PCDA(O) by PCDA(P) for further action. Even after repeated direction by the office of Secretary DESW & CGDA, PCDA(O) failed to take action in accordance to GoI/MoD orders issued from time to time quoted and explained above.

### **Action taken/not taken by the PAO i.e. PCDA(O)**

24. Unfortunately, PCDA(O) has been giving different reply since 2003 with different file/Account No. signed by different Wing/Account officers with different interpretation to deny me due revised/minimum guaranteed pension w.e.f. 1.1.1996/1.1.2006 on the basis of corresponding pay scale of the scale of pay held by me at the time of retirement on 28 Oct, 1981. Surprisingly PCDA(O) has not considered it necessary to seek clarifications from the office of CGDA or MoD, DESW on various orders issued by GoI to implement 4th/5<sup>th</sup>/6<sup>th</sup>/7<sup>th</sup> CPC recommendations for revision of pension w.e.f. 1.1.1996/1.1.2006/1.1.2016 in respect of pre-1986 retiree commissioned officers.

25. An attempt by PCDA(o) to pass on the responsibility to AG/PS -5 in 2021 and to AHQ MS Branch again in 2022 had no justification. MoD/DESW had already ruled vide their office letter No. 04/RTI/A/D (Pen/Ser) 2006 dt 13 Oct, 2006 that no power has been delegated to AG/PS - 5 to settle pension dispute involving PCDA(O) and PCDA(P). Moreover, AG/PS-5 had already transferred my petition to PCDA(P) vide their office letter No. B/41002/Maj/AG/PS-5 dt 3.2.2016. It was clearly laid down in para-20 of MoD policy letter dated 27.05.1998 that the matter can be referred to

Service HQ only in case of date of commission/retirement if not available with Pay Accounting authorities. Yet PCDA(O) earlier referred the claim to AG(PS-5) in 2021 and to AHQ MS Branch in 2022 instead of CGDA/ MoD for clarifications, if any, was required.

### **Opinion and direction given by MoD, DESW and CGDA**

26. PCDA(O) failed to take REMEDIAL ACTION as directed by CGDA vide their office Regn. No. CGATP/P/2018/01301 dt 7.7.2018. MoD, DESW D(Pension/Policy) had also given their opinion vide MoD ID no.1868/D(Pen/Pol)/2018 dated 22.11.2018 and ruled that my representation is related to notional fixation of pay w.e.f. 01.01.1986/1.1.1996 in accordance to MoD letter dated 27.05.1998 and therefore not being the policy matter , the representation was forwarded to D(PG) for redress of grievances. PCDA(P) vide their office letter no.G-1/M/01/ICO's/7th CPC/Vol-II/2017 dated 29.09.2017(para 5&6) addressed to PCDA(O) has also repeated the orders regarding applicability of MoD letter dated 27.05.1998 for revision of pension in respect of officers who retired prior to 01.01.1986. Orders issued by MoD were also and repeated by PCDA(P) Allahabad

27. Orders issued by GoI/MoD for revision of pension w.e.f. 01.01.2016 vide their office letter No. 17 (01)/2017 (02)/ D (Pen/Pol) dated 5 Sep, 2017 (para 7 &8) and letter No. 17(01)/2017(O2)/D (Pen/Pol) dated 17 Oct, 2018 (para 2) has repeated again that for the purpose of notional pay in respect of commissioned officer who retired or died before 1.1.1986, the pay scale and notional pay as on 1.1.86 as arrived at in term of instructions issued vide MoD letter No. 1(3)/98/ D (Pen/Ser/) dated 27.5.1998 shall be treated as the corresponding pay scale held at the time of retirement for calculation of notional pay and pension as on 1.1.1996/1.1.2006/1.1.2016 for further revision of pension/minimum guaranteed pension w.e.f. 1.1.1996/1.1.2006/1.1.2016.

### **Opinion and direction given by Min of Per PG & Pension**

28. Para 14 of Min of Per PG & Pension, Dept. Of Pension & PW OM F. No. 45/86/97-P & PW (A) Part-III dated 10 February, 1998 which is quoted in MoD letter dated 27.5.1998 for revision of pension w.e.f. 1.1.96, has further laid down the procedure to determine the corresponding pay scale which reads as follows:-

" There may be cases where it would be difficult for the Head of office to determine the revised scale of pay corresponding to pre revised scales, as the scales of pay have been revised from time to time and some of the scales might have become defunct after a particular period of time. In such cases it would be for the Head of Department to decide about equivalence of pre-revised scale with the revised scale after consulting the integrated finance Division. However, in cases where it is not feasible to arrive at a conclusion in this regard, the final decision can be taken by the Head of the Department in consultation with Ministry of Finance and DOPT."

### **POSITION OF THE PENSION CLAIM AS ON 1.5.2025**

29. As a result of my final petition dt 4 Sep, 2023 to Secretary DESW, I was informed by AG's Br AHQ on 28 March, 2024 by SMS that my claim to due revised pension has been resolved. A letter No.12621/IC-14670/T-4/MP5(B) dated 24 March, 2024 was also issued but the copy of this letter was not received by me. A message from PCDA(P) was also received by me that suo motu action will be taken by their office within 15 days but PCDA(P) failed to notify Corr. PPO till the month of May, 2025. The original PPO dated 8.10.2020 is due to be revised and updated in accordance to para 21 of

MoD policy letter dt.29 Oct, 2016 and dt. 5 Sep, 2017, dt. 17 Oct, 2018 and concordance table applicable to Lt Col with grade pay of Rs 8000/- as per decision given by MoD..

## **Delay in notifying Corr. PPO**

Since AG's Br. AHQ, PCDA(P) & PCDA(O) failed to take required action, I submitted another petition to Secretary Department of Ex-servicemen, Government of India MoD on 19 May,2025 which reads as follows.

**Sub:-Revised Corr. PPO w.r.t. original PPO No.131198100669 with PPO Suffix 0199 issued on 8.10.2020 due to be notified by PCDA(P) after revision/refixation of my pension w. e. f. 1.1.2006/ 1.1.2016 as a result my final petition dt. 4 Sep, 2023 to MoD- Reg. delay report about notification of Corr. PPO**

**Sir,**

I was informed on line by AG's Br. AHQ in March, 2024 that my grievance regarding revision of pension has been resolved and a letter No.12621/IC-14670M/T-4/MP-5(B) dated 24 March,2024 was also issued for compliance by PCDA(P). PCDA(P) vide their office letter No. SPARSH Army (ICOs)/11232/MoD/2024 dt.11.12.2024 (copy encl. A-1) informed me and D (PG) DESW that further action is required to be taken by the office of MP 5&6 of AG's Br AHQ with regard to amendment of 'Rank' and LPC through Corrigendum PPO with the approval of PCDA(O) Pune. Copy of this letter was received by me only in Feb, 2025.

**2.** PCDA(O)/PCDA(P)/AG's Br. AHQ have been playing this game since 1999 to delay and deny me due pension by giving factually wrong /misleading replies or passing the responsibility among themselves in violation of all the existing orders of MoD/GOI which have been adequately quoted and explained in the updated statement of the claim(SoC) as on 1.12.2024 (Copy encl. as Annexure-I with supporting documents A-5 to A-10 ). I had accordingly sent my application again for the redressal of my grievances to DESW on 23/26 Dec, 2024 which were sent to AG's Br. AHQ on 26.1.2025 vide MoD ID No.146/161/D(PG)/2025. In this connection I also submitted my application and a reminder to AG's Br on 25 March, 2025 but till to date no action has been taken by AG's Br. to send amended LPC-cum-data sheet with change in 'Rank' etc. for notifying Corr. PPO as intimated by the office of PCDA(P) letter dt. 11.12. 2024 quoted in para 1 above. Instead AG's Br. has sent copies of old correspondence between DIAV/MP-5(B) /PS-5/PCDA(O) for my information ignoring the decision given by MoD/GoI which have been adequately quoted in the statement of the claim as on 1 Dec, 2024 enclosed.

**3.** Initially, it was the AG's Br. AHQ who failed to understand the difference between Major upgraded to Lt Col with minimum 15 year service and Lt Col (TS) which was neither upgradation nor promotion as explained in para 15 of the statement of the claim. Thereafter, the o/o PCDA(O) was responsible to delay and deny me due minimum guaranteed pension w.e.f. 1.1.1996. PCDA(O) took action after 22 years to send Annexure-IV to the o/o PCDA(P) on 25.11.2021 in accordance to MoD policy letter dt. 27.5.1998 which was also found factually wrong with false certificate as explained in para 17- 18 of the statement of the claim enclosed. MoD policy letter dt. 27.5.1998 has been repeated in all GoI/MoD policy letters issued to implement 5<sup>th</sup>,6<sup>th</sup>&7<sup>th</sup> CPC recommendations in respect of pre-1986 retiree officers which was ignored for 22 years

**4.** In a nutshell, I have been the victim of omission (fail to include something) and commission (giving authority to some body to act for another) and misuse of office without accountability on the part of AG's Br AHQ/ PCDA(O)/PCDA(P). As a result I was forced to spend at least Rs15,000/- per year since 1999 to collect all supporting documents/orders of GoI/MoD in support of my pension claim and for

drafting/typing/printing/postage to submit my application/petition at least four time in a year to all concerned authorities under MoD/GoI for necessary orders and action.

5. Since MoD had already given their decision that no power has been delegated to AG Br. AHQ to settle the pension dispute involving PCDA(O) and PCDA(P) (para 25 of the statement of the claim refers), Ministry of Defence, D (Pen/Policy) is requested to pass necessary orders for compliance by AG's Br./ PCDA(P)/PCDA (O) and revise my pension w.e.f. 1.1. 2006 /1.1.2016 as per draft calculation sheet enclosed as A-2 and issue Corr. PPO accordingly. Copy of original PPO dt. 8.10.2020 and Concordance Table applicable to me are also enclosed as A-3 & A-4 for ready reference please.

Thanking you for doing the needful for payment of my due pension with arrears as early as possible and for saving me from further harassment and financial loss at this old age of 84 yrs.

## **CONCLUDING REMARKS AND LESSONS LEARNT**

### **Concluding remarks**

The importance of this claim is that MoD never rejected my claim and therefore I did not approach court or the tribunal to decide about my claim but used my knowledge and experience in research and writing to convince the authorities for taking right decision/action in the interest of truth and justice. It is said that 'knowledge is power' but this 25 year of war will prove that 'God is super power' and I fought this war for truth and justice and God was with me.

I was granted conditional premature retirement w.e.f. 28 October, 1981 with reserve liability up to 31 Aug, 1991. After my retirement I had a chance meeting with one of my course mate in 1984 who was surprised to see me that I had taken premature retirement in spite of better career prospects. He further asked me whether I was granted selection grade pay or up gradation from Maj to Lt Col or not based on my record of service. I had no information about this. Thereafter, I wrote a letter to the office of PCDA(O) Pune to let me know if I was granted selection grade pay before my conditional premature retirement on 28 October, 1981 and also requested their office to remit the arrears of pay, if any due, to my bank account.

Unlike today, the o/o PCDA(O) then promptly replied on 18.3.1985 indicating that I was granted selection grade w.e.f. 5 Aug, 1981 due to upgradation from Major to Lt Col as per authority letter issued by MS Branch AHQ dated 1.10.1984 and a copy of the letter was also sent to the o/o PCDA(P) Allahabad indicating amendment to original LPC about my last basic pay of the rank i.e. Rs.1850/- which was applicable to Lt Col (S) only instead of Rs.1800/- which was the maximum pay drawn by me as Major before my premature conditional retirement w.e.f. 28.10.1981. It is this letter which helped me to claim for revised/ minimum guaranteed pension w.e.f. 1.1.1996/1.1.2006/1.1.2016 as per 5<sup>th</sup>/6<sup>th</sup>/7<sup>th</sup> CPC recommendations. According to policy letters issued by MoF/Min of Per & PG/MoD, minimum guaranteed pension should not be less than 50% of the corresponding pay as on 1.1.1996 of the pay drawn by the pensioner at the time of retirement.

Orders for revision of pension in accordance to 5<sup>th</sup> CPC recommendations were issued by MoD on 27.5.1998. In case of pre-1986 retiree officers, different procedure was laid down in para 5,6,20 of MoD policy letter dated 27.5.1998 which the o/o PCDA(O) ignored for 22 years. Even though MoD/CGDA had given their opinion /direction to the o/o PCDA(O), their office continued to drag the long outstanding claim by giving factually wrong and misleading replies to all

concerned authorities to delay and deny me revised/ minimum guaranteed pension w.e.f. 1.1.1996 without any accountability.

## **Lessons to be learnt**

**Firstly**, the policy letters issued to implement revised pay fixation and pension rules at GoI level should be carefully drafted by MoD and should have the approval of MoF/Min of Per & PG when the orders are based on MoF/Min of Per & PG policy letters issued on the subject. In case of amendment or clarification by MoF/Min of Per & PG, the same should also be notified and incorporated subsequently in the original policy letters notified by the MoD.

**Secondly**, the lowest level offices like the Record offices i.e. MS Br/AG's Br AHQ, PAO and PSA will not be able to do justice to the job assigned to their office if they remain ignorant of basic service rules/ conditions, promotion/upgradation rules, pay fixation rules and pension rules as amended from time to time as a result of CPC recommendations or court rulings. In case of doubt, the concerned office should seek clarification from GoI/ MoD instead taking action/ decision arbitrarily without any authority resulting into infructuous correspondence, financial loss and harassment to the pensioner on the one hand and financial irregularities being committed in fixation of pay/pension by the concerned offices on the other hand.

**Thirdly**, all concerned authorities need to know the difference between promotion and upgradation which was clarified by the MoD in the policy letter dated 3.5.2017 quoted in the updated statement of the claim as on 1.12.2024 quoted above.. However, there is always a tendency among concerned authorities to continue to take arbitrary decisions to either give benefit to one individual/ group of employees or deprive of the benefit to another individual/ group of employees. This may be due to ignorance about the fundamental rules and regulations laid down by GoI or inefficiency/ corruption in the department.

**Fourthly**, final Judgement given by the SC in any case particularly affecting pay/pension rules should be automatically incorporated in the rules and notified by GoI/MoD for implementation. It may be noted that in a case between Bharat Sanchar Nigam Ltd v/s R. Santha Kumari Velusamy (2011) 9 SCC 510 the bench of R V Raveendran and Markandey Katju in the SC laid down the principles relating to promotion and up gradation with higher pay scale and entitlement of financial benefits accordingly. According to SC judgement, if vacancies are fixed for upgradation to higher post with higher pay scale, minimum service is laid down and upgradation is granted after screening then it will be also treated as promotion.

**Fifthly**, I succeeded in collecting all relevant rules and policy letters/law cases issued by GoI/MoF/Min of Per & PG/MoD in support of my claim with the help of various websites and manuals published by government and non-government organizations which have been adequately quoted and explained in the updated statement of the claim as on 1.12.2024 reproduced as above. However, no single office or concerned authority was found to be knowing or in possession of the relevant rules/policy letters except that my representation was forwarded repeatedly to the o/o PCDA(O)/PCDA(P) by MoD DESW/ Min of Per & PG for necessary action.

**Sixthly**, MoD issued final orders on 24.7.2014 to implement SC Judgement in a 'Rank Pay Case' for refixation of pay as on 1.1.1986 in respect of all officers who were in service on 1.1.1986 and the same also became applicable to me for notional fixation of pay on 1.1.1986 being a pre-1986 retiree officer for revision of pension w.e.f. 1.1.1996. Army Pay Rule-2017 notified on 3 May, 2017

also clarified that promotion and upgradation is one and the same. Full copy of the MoD policy letters dated 14.2.1980 , dated 5.3.1982 and dated 17 Nov, 1982 regarding selection grade policy were finally made available on 25.11.2021 by the office of PCDA(O) to the o/o CGDA and me which helped to resolve the long drawn claim only in 2024.

**Lastly, it may be noted by all government authorities at all level that there has been repeated violation of guidelines and procedure laid down by the DARPG for the redressal of grievances. According to para 5.1 & 6.1 of the guidelines- “An analysis of grievances received in DAPRG and Directorate of Public Grievances has revealed that the majority of grievances related to inordinate delay in taking decisions, extending from several months to several years and refusal/inability to make speaking replies/disclose basic information to the petitioners to enable them to examine whether their cases have been correctly decided. It is observed that, had the concerned organizations expeditiously and appropriately dealt with the grievances in the first instance, the complainants would not have approached DARPG & D (PG)”.**