

Amended Writ

861

IN THE SUPREME COURT OF INDIA
ORIGINAL CIVIL WRIT JURISDICTION
(ORDER XXXVII, S.C.R, 2013)
UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA
WRIT PETITION (CIVIL) NO. 419 OF 2016

BETWEEN

Indian Ex Servicemen Movement & Ors.

... Petitioners

Versus

Union of India & Ors.

... Respondents

WITH

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

ADVOCATE FOR THE PETITIONERS: BALAJI SRINIVASAN

ITEM NO.49

COURT NO.13

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 419/2016

INDIAN EX SERVICEMEN MOVEMENT & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR AMENDMENT OF THE PETITION ON IA 1/2017)

Date : 19-11-2018 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Mr. Varun K. Chopra, Adv.
Mr. Balaji Srinivasan, AOR

For Respondent(s) Mr. Maninder Singh, ASG
Ms. Pinky Anand, ASG
Mr. Rana Mukherjee, Sr. Adv.
Ms. Saudamini Sharma, Adv.
Ms. R. Bala, Adv.
Mr. S.K. Pathak, Adv.
Mr. Sumit Teterwal, Adv.
Mr. Arvind Kumar Sharma, Adv.

Mr. Mukesh Kumar Maroria, AOR


UPON hearing the counsel the Court made the following
O R D E R

List the matter for final disposal on Tuesday, 5th
February, 2019.

(GEETA AHUJA)
COURT MASTER (SH)

(SAROJ KUMARI GAUR)
BRANCH OFFICER

Signature Not Verified

Digitally signed by
VISHAL AHUJA
Date: 2019.01.20
18:06:49 IST
Reason: 

WP(C) 419/2016

ITEM NO.6

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition (Civil) No. 419/2016

INDIAN EX SERVICEMEN MOVEMENT (AN ALL
INDIA FEDERATION OF MILITARY VETERANS'
ORGANISATION & ORS.

Petitioners

VERSUS

UNION OF INDIA REP. BY THE SECRETARY,
DEPARTMENT OF EX-SERVICEMEN WELFARE,
MINISTRY OF DEFENCE & ORS.

Respondents

(FOR AMENDMENT OF THE PETITION ON IA 1/2017)

Date : 27-07-2018 This matter was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner

Mr. Vivek K. Tankha, Sr. Adv.
Mr. Balaji Srinivasan, AOR

For Respondent

Mr. Maninder Singh, ASG
Mr. Rana Mukherjee, Sr. Adv.
Mr. R. Balasubramanian, Adv.
Mr. S.K. Pathak, Adv.
Mr. Prabhas Bajaj, Adv.
Ms. Aarti Sharma, Adv.
Ms. Kanika Saran, Adv.
Mr. Mukesh Kumar Maroria, AOR
Mr. A.K. Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Let the matter be listed for final disposal after
four weeks.

Pleadings shall be completed from all spectrums
by then.

Signature Not Verified
Digitally signed by
DEEPAK GUGLANI
Date: 2018.07.27
15:19:34 IST
Reason: []

(Deepak Guglani)
Court Master

(H.S. Parasher)
Assistant Registrar

ITEM NO.6

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
Writ Petition (Civil) No. 419/2016

INDIAN EX SERVICEMEN MOVEMENT (AN ALL
INDIA FEDERATION OF MILITARY VETERANS'
ORGANISATION REPRESENTED BY GENERAL SECRETARY & ORS. Petitioners

VERSUS

UNION OF INDIA, DEPARTMENT OF EX-SERVICEMEN
WELFARE, MINISTRY OF DEFENCE, REPRESENTED BY
THE SECRETARY & ORS.

Respondents

(FOR AMENDMENT OF THE PETITION ON IA 1/2017)

Date : 27-04-2018 This matter was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner Mr. Balaji Srinivasan, AOR
Ms. Garima Jain, Adv.
Ms. Vaishnavi Subrahmanyam, Adv.
Ms. Pratiksha Mishra, Adv.
Ms. Pallavi Sengupta, Adv.

For Respondent Mr. R. Balasubramanian, Adv.
Mr. S.K. Pathak, Adv.
Ms. Aarti Sharma, Adv.
Mr. Prabhas Bajaj, Adv.
Mr. Akshay Amritanshu, Adv.
Mr. Mukesh Kumar Maroria, AOR

UPON hearing the counsel the Court made the following
O R D E R

Mr. R. Balasubramanian, learned counsel for the respondents prays for some time to file reply to the amended petition. Let it be done within four weeks hence.

As undertaken by Mr. Balasubramanian, he will not seek further time in this regard.

List the matter on 27.7.2018.

(Deepak Guglani)
Court Master

(H.S. Parasher)
Assistant Registrar

ITEM NO.6

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

IA No.1/2017 in Writ Petition(s)(Civil) No(s).419/2016

INDIAN EX SERVICEMEN MOVEMENT
(AN ALL INDIA FEDERATION OF MILITARY
VETERANS ORGANISATION) & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA, DEPARTMENT OF
EX-SERVICEMEN WELFARE, MINISTRY OF DEFENCE

Respondent(s)

(FOR AMENDMENT OF THE PETITION ON IA 1/2017)

Date : 16-02-2018 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Petitioner(s)/ Applicant(s) Mr. Vivek Tankha, Sr. Adv.
Mr. Balaji Srinivasan, Adv. [AOR]
Mr. Arunava Mukherjee, Adv.
Ms. Pratiksha Mishra, Adv.
Mr. Vivek Chopra, Adv.
Mr. Abhishek Bharti, Adv.
Ms. Vaishnavi Subrahmanyam, Adv.

For Respondent(s) Mr. R. Bala, Adv.
Mr. S.K. Pathak, Adv.
Ms. Kasturika K., Adv.
Ms. Ekta Pradhan, Adv.
Ms. Sreoshi Chatterjee, Adv.
Mr. Mukesh Kumar Maroria, AOR

UPON hearing the counsel the Court made the following
O R D E R

It is an application for amendment of writ petition.

Having heard learned counsel for the parties, the prayer is
allowed.

The petitioners shall file the consolidated writ petition
within two weeks hence.

Signature Not Verified
Digitally signed by
SUBHASH CHANDER
Date: 2018.02.16
17:31:15
Reason:

Counter affidavit to the amended writ petition be filed within
four weeks therefrom.

List the writ petition in the 1st week of April 2018.

(Subhash Chander)

(H.S. Parasher)

AR-cum-PS

Assistant Registrar

ITEM NO.812

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A.No.33253/2017 in
Writ Petition(s)(Civil) No(s). 419/2016

INDIAN EX SERVICEMEN MOVEMENT
(AN ALL INDIA FEDERATION OF MILITARY
VETERANS ORGANISATION REPRESENTED

Petitioner(s)

VERSUS

UNION OF INDIA
DEPARTMENT OF EXSERVICEMEN WELFARE
MINISTRY OF DEFENCE SECRETARY

Respondent(s)

(FOR AMENDMENT OF THE PETITION ON IA 1/2017)

Date : 05-02-2018 This petition was MENTIONED today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr. Balaji Srinivasan, Adv. [AOR][Mentioned by]

For Respondent(s) Mr. Mukesh Kumar Maroria, AOR

UPON hearing the counsel the Court made the following
O R D E R

Let the application be listed next week before appropriate
Bench as per roster.

(Subhash Chander)
AR-cum-PS

(H.S. Parasher)
Assistant Registrar

ITEM NO.804

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s) (Civil) No(s). 419/2016

INDIAN EX SERVICEMEN MOVEMENT (AN ALL INDIA FEDERATION OF MILITARY
VETERANS ORGANISATION REPRESENTED Petitioner(s)

VERSUS

UNION OF INDIA DEPARTMENT OF EXSERVICEMEN WELFARE MINISTRY OF
DEFENCE SECRETARY Respondent(s)

(FOR AMENDMENT OF THE PETITION ON IA 1/2017)

Date : 22-08-2017 This application was mentioned today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Ms. Pratiksha Mishra, Adv.
for Mr. Balaji Srinivasan, AOR

For Respondent(s) Mr. Mukesh Kumar Maroria, AOR

UPON hearing the counsel the Court made the following
O R D E R

Be retained for the date it is presently shown, namely,
25.08.2017.

(PARVEEN KUMAR)
AR CUM PS

(RENUKA SADANA)
ASST.REGISTRAR

Signature Not Verified

Digitally signed by
PARVEEN KUMAR
Date: 2017.08.22
17:30:18 IST
Reason:

ITEM NO.44

REGISTRAR COURT. 1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

BEFORE THE REGISTRAR MR. PAWAN DEV KOTWAL

Writ Petition(s) (Civil) No(s). 419/2016

INDIAN EX SERVICEMEN MOVEMENT AND ORS

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS
(with office report)

Respondent(s)

Date : 05/09/2016 This petition was called on for hearing today.

For Petitioner(s)

Mr. Balaji Srinivasan, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

None appears for any of the respondents, despite due
service.

Registry to process the matter for being listed before
the Hon'ble Court, as per rules.

(PAWAN DEV KOTWAL)
Registrar

Signature Not Verified

Digitally signed by
RUPAM CHAUDHARY
Date: 2016.08.05
17:06:37 IST
Reason: I am the signatory

ITEM NO.18

COURT NO.4

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s) (Civil) No(s). 419/2016

INDIAN EX SERVICEMEN MOVEMENT AND ORS

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS

Respondent(s)

Date : 11/07/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. Ram Jethmalani, Sr. Adv.
Ms. Lataa Krishnamoorthy, Adv.
Mr. Arunava Mukherjee, Adv.
Mr. Balaji Srinivasan, AOR
Mr. Anirudh Anand, Adv.
Mr. Chirag Madan, Adv.
Mr. N. Ajay Awasthi, Adv.
Mr. Mayank Kshirsagar, Adv.
Ms. Srishti Govil, Adv.
Ms. Vaishnavi Subrahmanyam, Adv.
Ms. Pratiksha Mishra, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Issue notice returnable within eight weeks.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

RECORD OF PROCEEDINGS

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17. **Annexure-P-13**

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20. **Annexure-P-16**

True copy of the Resolution of Respondent No. 1
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True copy of the letter of Respondent No. 1 dated
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Ministry of Defence.

PROFORMA FOR FIRST LISTING

SECTION X

<input type="checkbox"/>	Central Act: (Title)	
<input type="checkbox"/>	Section:	Article 14 & 21
<input type="checkbox"/>	Central Rule: (Title)	N/A
<input type="checkbox"/>	Rule No. (s):	N/A
<input type="checkbox"/>	State Act: (Title)	N/A
<input type="checkbox"/>	Section:	N/A
<input type="checkbox"/>	State Rule: (Title)	N/A
<input type="checkbox"/>	Rule No.(s):	N/A
<input type="checkbox"/>	Impugned Interim order: (Date)	N/A
<input type="checkbox"/>	Impugned Final Order/Decree: (Date)	N/A
<input type="checkbox"/>	High Court: (Name)	N/A
<input type="checkbox"/>	Name of Judges:	N/A
<input type="checkbox"/>	Tribunal/Authority: (Name)	N/A
1.	Nature of matter:	<input checked="" type="checkbox"/> Civil <input type="checkbox"/> Criminal
2.	(a) Petitioner/appellant No. 1:	Indian Ex Servicemen Movement & Ors.
	(b) e-mail ID:	N/A
	I Mobile phone number:	N/A
3.	(a) Respondent No.1:	Union of India & Ors.
	(b) e-mail ID:	N/A
	I Mobile phone number:	N/A
4.	(a) Main category classification:	26 Personal Law Matters
	(b) Sub classification:	2605 Others

5.	Not to be listed before:	N/A
6.	Similar/Pending matter:	N/A
7.	Criminal Matters:	N/A
	(a) Whether accused/convict has surrendered:	<input type="checkbox"/> Yes <input type="checkbox"/> No
	(b) FIR No.	N/A
	I Police Station:	N/A
	(d) Sentence Awarded:	N/A
	(e) Sentence Undergone:	N/A
8.	Land Acquisition Matters:	N/A
	(a) Date of Section 4 notification:	N/A
	(b) Date of Section 6 notification:	N/A
	I Date of Section 17 notification:	N/A
9.	Tax Matters: State the tax effect:	N/A
10.	Special Category (first petitioner/appellant only):	N/A
<input type="checkbox"/>	Senior citizen > 65 years <input type="checkbox"/> SC/ST <input type="checkbox"/> Woman/child	
	<input type="checkbox"/> Disabled <input type="checkbox"/> Legal Aid Case <input type="checkbox"/> In custody	
11.	Vehicle Number (in case of Motor Accident Claim matters):	N/A
12.	Decided cases with citation:	N/A

(BALAJI SRINIVASAN)
AOR for Petitioners
24, Lawyers Chamber
Supreme Court of India
New Delhi
C.C.No. 1546
Registration No.
E-mail I.D.: balaji@24lc.in

Date:- .04.2017

SYNOPSIS

1. A summary of the concept and issue of One Rank One Pension

One Rank One Pension is the uniform desire of all three defence services. Ex-servicemen are presently drawing pension that is not consistent with their rank and/or length of service. In fact, some ex-servicemen are even drawing lesser pension than other ex-servicemen who retired with a subordinate rank (or in the same rank), which is unjust and unconstitutional. In *Union of India v. SPS Vains*, (2008) 9 SCC 125 it was held that creation of a "class within a class" is illegal, unconstitutional and violative of the Fundamental Rights guaranteed by the Constitution.

One Rank One Pension (hereinafter, also referred to as "OROP") is the uniform payment of pension to ex-servicemen who retire in the same rank with the same length of service, irrespective of their date of retirement. It also involves any future enhancement in the rates of pension for recent pensioners being "automatically" passed on to the past pensioners. This definition has been approved by Respondent No. 1 on 26.02.2014.

Most shockingly, despite report of the Koshyari Committee (infra) and the decision of the Hon'ble Supreme Court in *Union of India v. SPS Vains* (supra), the Government has delayed the implementation of OROP in utter violation of the

Constitution and rule of law. Further, it is also attempting to create "one rank different pensions" by proposing to pass any future enhancement in the rates of pension, to the past pensioners, on a "periodic" basis (as opposed to "automatically" and contemporaneously). Effectively, it is proposing to continue with "one rank different pensions" as past pensioners will draw lesser pension than ex-servicemen who retire junior in rank, if pension enhancement benefits are not passed on "automatically" to past pensioners.

2. OROP existed for 26 years after Independence but was unjustly changed

Till Third Central Pay Commission, armed forces' retired servicemen were getting OROP as pensions were fixed on the basis of the last rank held before retirement. Subsequent pay commissions recommended that the pension of ex-servicemen be reduced and, to compensate them (somewhat) for such financial loss, they be absorbed in paramilitary forces, or police forces, or public sector organisations upon their retirement. While their pension rates were revised downwards by the Government of India, the recommendations relating to absorption upon retirement went completely unheeded and remain unimplemented. At the same time, the pension of civilian public servants (under the Central Government) was enhanced.

3. The Koshyari Committee Report criticised the Government and recommended OROP

In 2010-11, the Parliament examined the issue of OROP for ex-servicemen. On 19.12.2011, the Rajya Sabha Committee on Petitions presented its 142nd Report on the Petition Praying for Grant of OROP to the Armed Forces Personnel (also known, and hereinafter referred to, as the "**Koshyari Committee Report**"). The Committee (also known, and hereinafter referred to, as the "**Koshyari Committee**"), which consisted of ten Members of Parliament drawn from all the major political parties, found merit in the demand for OROP and strongly recommended that, the Government should implement OROP in the Defence Services across the board at the earliest. Although the Central Government had cited various administrative, logistic, financial and other difficulties in implementation of OROP, they were overruled by the Koshyari Committee. The Koshyari Committee found that OROP was in vogue till 1973 and the submissions of the Ministries citing various difficulties in implementation of OROP were a typical example of bureaucratic apathy which harms the soldiers. The Koshyari Committee was

"distressed to note that the defence personnel of our country have returned their service medals to the President of India in view of the Government's apathetic attitude towards their demand of grant of OROP"

It noted, *inter alia*, that:

"[...] the decision of the Government to bring our defence personnel on the pattern of the civilians with regard to their pay, pension, etc. (from Third Central Pay Commission onwards) is not a considered decision which has caused hardship to the defence personnel and has given birth to their demand for OROP."

It recommended, *inter alia*, that:

"The Committee takes note of the fact that a sum of Rs.1300 crores is the total financial liability for the year 2011-12 in case OROP is implemented fully for all the defence personnel in the country across the board."

[...]

The Committee feels that 1300 crores is not a very big amount for a country of our size and economy for meeting the long pending demand of the armed forces of the country. The Committee understands that this 1300 crores is the expenditure for one year which might increase at the rate of 10 percent annually. Even if it is so, the Committee does not consider this amount to be high, keeping in view the objective for which it would be spent."

[...]

The Committee is not convinced with the version of the Ministry of Finance that the grant of OROP to the defence personnel would eventually generate similar requests from the civilian work force of the country under the Central Government and the State Governments. The Committee feels so because of the quite different terms and conditions of service of the two different

categories of employments. The terms and conditions of armed forces are tougher and harsher than the civilian Government employee. There are restrictions of fundamental rights to the armed forces. Risk to life of a soldier is always higher as they work under severe strain and sense of insecurity with undefined and unlimited working hours. Transfers and dislocation along with bleak career prospects are other disadvantages attached with the armed forces. Their family life is also non-comparable with that of civilian Government employee.

[...]

Further, the Committee would not like this argument or apprehension to stand in the way of the legitimate and fair demand of the defence personnel.

There is another dimension of the issue under consideration, i.e., the necessity and justification for bringing about the change through the Third Central Pay Commission. Nothing has been brought before the Committee which could explain or justify the circumstances in which the defence personnel were applied the same criteria as applicable to the country's civilian work force under the Central Government for the purpose of determining their pay, allowances, pension, family pension, etc."

4. Government is denying OROP but astronomically enhancing salary of civil servants

In 2008, the United Progressive Alliance Government decided to controversially sanction a career path for all civil servants and Indian Police Service officers that, *inter alia*, created hundreds of new posts of secretaries / director general of police at the Apex Pay Grade level and ensured that senior civilian Government officers retire at the highest pay grade called the Apex Pay Grade (Rs 80,000). It also introduced Non-functional Financial Up-gradation (NFU) to ensure that Class I civil servants get automatic time bound pay / promotions and also, irrespective of job title or responsibility, retire at the pay and pension of Armed Forces Lieutenant General i.e., the highest rank in the Indian Army after the apex rank of General (thus, adversely affecting officers of the Defence Services). No reasoning or explanation was given for the decision to implement NFU (except that it would "alleviate stagnation in the civil services"), although such decision had the effect of arbitrarily and discriminatorily down-grading the pay grades, allowances, pension and status of the Defence Services. It is also relevant that NFU was refused to the Defence Services. Thus, the Government created pay-pension-status asymmetries between defence forces and police / civil services.

5. Surrender of service and gallantry medals by ex-servicemen to protest the unjustness

Ex-servicemen were constrained to surrender their hard earned service and gallantry medals to the President of India (around 22000 medals have been deposited with the President of India), which was noted later as a matter of serious concern, by the Koshiyari Committee. It is submitted that the reasons that led to the intensified protest for OROP since 2008 are not pension alone, but the far larger issues of justice, equity, and *izzat* (honour).

6. False promises made to ex-servicemen and electoral fraud on voters

During his election campaign, Mr. Narendra Modi promised that OROP will be implemented immediately after the BJP came to power. However, OROP is yet to be implemented. Although the Hon'ble Defence Minister had worked out a package with an expected outlay of Rs. 8296.40 crores per annum, which package satisfies the aspiration of the veterans' community regarding OROP, it is yet to be implemented.

7. Proposals in the Interim Budget Speech 2014-2015 and the Budget 2014-2015

The Interim Budget Speech 2014-2015 on 17.02.2014 and the Budget Speech 2014-2015 on 10.07.2014 announced that the Government has accepted the principle of OROP for the Defence Services and a policy of OROP has been

adopted by the Government to address pension disparities. In his Budget Speech, the Hon'ble Finance Minister proposed to set aside a further sum of Rs. 1,000 crores to meet that year's requirement.

8. OROP was sanctioned by the Central Government (but is yet to be implemented)

A meeting to discuss OROP was convened on 26.02.2014 at Room 103 of South Block, which meeting was chaired by the Hon'ble Defence Minister. The Defence Secretary, the Secretary to the Department of Ex-Servicemen Welfare, the Controller General of Defence Accounts, the three Vice Chiefs of Staff, and senior officers of the Service Headquarters along with the concerned Joint Secretaries attended such meeting. The minutes of the meeting indicate that *"It was noted that "One Rank One Pension (OROP) implies that uniform pension be paid to the Armed Forces personnel retiring in the same rank with the same length of service irrespective of their date of retirement and any future enhancement in the rates of pension to be automatically passed on to the past pensioners. This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners and also of future enhancements in the rate of pension to be automatically passed on to the past pensioners". This is the true definition of OROP.*

The minutes of the meeting also record that the Government's commitment to implement OROP was reaffirmed by the Hon'ble Defence Minister, who *"specifically indicated that the FM had also clarified that the figure of Rs. 500 crores made available was only indicative and even if more funds are required, the same would be made available."*

9. The true meaning of OROP illegally twisted by the Government to create a perverse definition and murder of the spirit of OROP

On 07.11.2015, the Joint Secretary of Respondent No. 1 issued a letter to the Chief of Army Staff, the Chief of Naval Staff, and the Chief of Air Staff bearing reference

12(1)/2014/D(Pen/Pol)-Part-II regarding decision taken on OROP. It is submitted that the settled and true definition of OROP was arbitrarily and cunningly altered by such letter, since it described OROP as uniform payment of pension to retired servicemen *"retiring in the same rank with the same length of service, regardless of their date of retirement, which implies bridging the gap between the rates of pension of current and past pensioners at periodic intervals"*. It is submitted that this new perverse definition of OROP does not include that any future enhancement in the rates of pension would be "automatically" passed on to the past pensioners. Thus, it did great injustice in the most perverse and arbitrary fashion to 24 lakh ex-servicemen, 6.5 lakh war widows and

veteran widows, and their families by creating a situation of "one rank different pensions", which is not permissible in view of the judgment of this Hon'ble Court in *Union of India v. SPS Vains* (supra). The new (revised) perverse definition of OROP will lead to a situation where the pension drawn by an ex-serviceman who retired earlier will be less than the pension drawn by an ex-serviceman who retires in 2014, until such time a annual "periodic" review is done to correct the anomaly. Thus, it will create a class within a class (i.e. among ex-servicemen who retired with the same rank with the same length of service, some will receive higher pension and some will receive lower pension, based on the date of their retirement), which differentiation leads to "one rank different pensions" and is arbitrary, unconstitutional and impermissible.

Also, in such letter dated 07.11.2015, it was stated that a decision has been taken to implement OROP for ex-servicemen with effect from 01.07.2014. It is submitted that the date 01.07.2014 is arbitrary and it is also deviated from the decision to implement OROP from financial year 2014-2015. Further, in the letter dated 07.11.2015, the salient features of OROP were set out in five points, which have the effect of destroying the spirit of OROP.

10. The Notification under challenge – Government's attempt to mislead the Justice Narasimha Judicial Committee

On 14.12.2015, a Notification bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II was issued by Respondent No. 1, which Notification arbitrarily and illegally adhered to the altered and perverse definition of OROP as reflected in letter bearing reference 12(1)/2014/D(Pen/Pol)-Part-II dated 07.11.2015 (supra). Such Notification also appointed a Judicial Committee headed by Justice L. Narasimha Reddy (former Chief Justice of the High Court at Patna) to examine and make recommendations on references received from the Central Government on measures for removal of anomalies that may arise during the implementation of the letter bearing reference 12(1)/2014/D(Pen/Pol)-Part-II dated 07.11.2015 (supra). It is submitted that the Judicial Committee's terms of reference is restricted to the perverse and arbitrary definition of OROP, which will lead to recommendations that are unsuitable and against the spirit of OROP.

11. Government continues to follow the perverse definition of OROP that violates Article 14 and 21 of the Constitution

On 03.02.2016, Respondent No. 1 issued a letter to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff bearing reference 12(1)/2014/D(Pen/Policy)-Part-II regarding decision taken on OROP. It is submitted that such letter dated 03.02.2016 of Respondent No. 1 is unjust, arbitrary,

violative of Articles 14 and 21 of the Constitution, and contrary to the principle laid down by this Hon'ble Court in *Union of India v. SPS Vains* (supra), since it refers to and follows the arbitrary definition and implementation scheme of OROP as notified by the letter bearing reference 12(1)/2014/D(Pen/Pol)-Part-II dated 07.11.2015 (supra).

12. Representations by ex-servicemen to the Government on the anomalies relating to implementation of OROP

On 25.01.2016, Petitioner No. 1 wrote to the Hon'ble Defence Minister underscoring that Respondent No. 1 had changed the true definition of OROP. It was underscored that the new perverse definition of OROP observed in correspondence of Respondent No. 1 (including in the letter bearing reference 12(1)/2014/D(Pen/Pol)-Part-II dated 07.11.2015) deviated from the "automatic" mechanism and proposed a "periodic" one. It was submitted that such alternations completely change the original accepted definition of OROP, would deprive past pensioners of monetary benefits, and destroy the very soul of OROP.

13. Gross violation of the Constitution and judgments of this Hon'ble Court

(a) The constitutional position on which the Petitioners are relying is too well settled to be ignored or evaded. The conduct of the Government apart from being politically

immoral, is wholly unconstitutional being in violation of Article 14 and Article 21 of the Constitution of India.

(b) The judgment of the Hon'ble Supreme Court in *Union of India v. SPS Vains* reported as (2008) 9 SCC 125 is the leading judgment and it follows two previous judgments exactly on the same point viz. *D.S. Nakara v. Union of India*, (1983) 1 SCC 305 and *R. Viswan v. Union of India*, (1981) 3 SCC 401. The proposition laid down is that all servicemen retiring in the same rank and after the same number of years of service constitute one class and no differential treatment can be accorded to any member of such class for any reason whatsoever because that would be creating a sub-class within a class, which would be a violation of Article 14 of the Constitution.

(c) It is also unfair and almost ruinous for widows and other dependents of ex-servicemen of the armed forces as they are entitled to the pension payable to their husbands and parents. It is also a gross violation of Article 21 of the Constitution.

(d) The referenced judgments are in complete accordance with the findings of the Koshyari Committee referred to in paragraph 3 above and completely make the findings of the Third Central Pay Commission wholly unfair and arbitrary.

(e) Further, the present Government is in breach of its election promises on the basis of which the members of the armed forces were persuaded to lend their support to the present party in power at the centre today. Moral and legal estoppel prevents it from repudiating that obligation, treating it as another election "*jumla*" i.e. gimmick or joke.

14. In conclusion

The true meaning of OROP involves "automatic" enhancement in the rates of pension being passed on to past pensioners whenever there is any enhancement in the rates of pension, as opposed to "periodic" enhancement in the rates of pension for past pensioners. The failure to implement this, which is causing great emotional / psychological and financial hardship to ex-24 lakh servicemen and 6.5 lakh war widows and veteran widows, is unjust, arbitrary, and violative of Articles 14 and 21 of the Constitution. The true definition of OROP was settled in the meeting dated 26.02.2014 (*supra*), which meeting was chaired by the Hon'ble Defence Minister and attended by senior bureaucrats. However, the letter dated 07.11.2015 (*supra*) arbitrarily changed the true definition of OROP. It is submitted that the new and perverse definition of OROP, which was illegally revised *vide* the letters of Respondent No. 1 dated 07.11.2015 and 03.02.2016 and the intervening Notification dated

14.12.2015, destroys the original definition and spirit of OROP and also leads to a perverse and unjust implementation of OROP. It is therefore submitted that they are unjust, arbitrary, violative of Articles 14 and 21 of the Constitution. It is further submitted that they create a situation of "one rank different pensions", which is not permissible in view of the judgment of this Hon'ble Court in *Union of India v. SPS Vains* (supra) wherein it was held that creation of a class within a class is illegal, unconstitutional and violative of the Fundamental Rights guaranteed by the Constitution.

LIST OF DATES

- | | |
|----------|---|
| Pre-1973 | The soldiers of our defence forces were receiving the same pension if they retired in the same rank with the same length of service. |
| 1973 | The demand for OROP started when the Third Central Pay Commission took an arbitrary and ex-parte decision against the then existing OROP formula (also, known as OROP), thereby not only reducing the pay of soldiers drastically but also creating a situation of "one rank different pay" among soldiers. |
| 2008 | The demand for OROP gathered momentum when ex-servicemen were constrained to return their |

service and gallantry medals owing to the indifferent attitude of the Government to grant OROP while the pay/pension/career-progression of various civilian Government servants was controversially and dramatically enhanced by the UPA Government.

This Hon'ble Court held that "one rank different pensions" is not permissible in *Union of India v. SPS Vains, (2008) 9 SCC 125* and declared that creation of a class within a class is illegal, unconstitutional and violative of the Fundamental Rights guaranteed by the Constitution.

12.06.2009

Respondent No. 1 wrote a letter to the Chief of Army Staff bearing reference No. 1 (8)/2008-D (Pen/Policy), communicating the decision to grant the benefit of Hon. Naib Subedar for the purposes of fixation of pension.

2010-11

The Parliament examined the issue of OROP for ex-servicemen.

19.12.2011

The Rajya Sabha Committee on Petitions presented its 142nd Report on the Petition Praying for Grant of OROP to the Armed Forces Personnel. The Committee (also known, and hereinafter referred to, as the "Koshyari

Committee"), which consisted of ten Members of Parliament drawn from all the major political parties, found merit in the demand for OROP and strongly recommended that, the Government should implement OROP in the Defence Services across the board at the earliest.

10.05.2013 The Ld. Armed Forces Tribunal, Principal Bench at New Delhi, in Ex Hav. (Hon. Nb. Sub.) Ram Kanwar v. Union of India and Others, MA 243 of 2013 in OA 400 of 2012 held that the decision to grant the benefit of Hon. Naib Subedar for the purposes of fixation of pension communicated *vide* letter of Respondent No. 1 to the Chief of Army Staff dated 12.06.2009 bearing reference No. 1 (8)/2008-D (Pen/Policy) must be followed.

15.09.2013 During his election campaign, Mr. Narendra Modi (then candidate for Prime Minister and presently the Hon'ble Prime Minister of India) and Mr. Raj Nath Singh (then National President of the Bharatiya Janata Party (hereinafter, the "BJP") and presently the Hon'ble Home Minister) promised that OROP will be implemented immediately after the BJP came to power. Such promise was made at a rally of ex-servicemen at Rewari on 15.09.2013.

17.02.2014

The Hon'ble Finance Minister in his Interim Budget Speech 2014-2015 announced that the Government of India has accepted the principle of OROP for the Defence Services. It was also announced that the requirement for 2014-15 is estimated at Rs. 500 crore and, as an earnest of the UPA Government's commitment, a sum of Rs. 500 crores was proposed to be transferred to the Defence Pension Account in the current financial year itself.

26.02.2014

A meeting to discuss OROP was convened at Room 103 of South Block, which meeting was chaired by the Hon'ble Defence Minister. The Defence Secretary, the Secretary to the Department of Ex-Servicemen Welfare, the Controller General of Defence Accounts, the three Vice Chiefs of Staff, and senior officers of the Service Headquarters along with the concerned Joint Secretaries attended such meeting. The minutes of the meeting indicate that *"It was noted that "One Rank One Pension (OROP) implies that uniform pension be paid to the Armed Forces personnel retiring in the same rank with the same length of service irrespective of their date of retirement and any future enhancement in the*

rates of pension to be automatically passed on to the past pensioners. This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners and also of future enhancements in the rate of pension to be automatically passed on to the past pensioners".

The minutes of the meeting also record that the Government's commitment to implement OROP was reaffirmed by the Hon'ble Defence Minister, who "specifically indicated that the FM had also clarified that the figure of Rs. 500 crores made available was only indicative and even if more funds are required, the same would be made available." The minutes of the meeting further indicate that the Controller General of Defence Accounts (Respondent No. 4 herein) was directed initiate necessary steps to give effect to the decision to implement OROP, in consultation with the three Defence Services (and ex-servicemen) as well as Respondent No's 1 and 2.

26.02.2014

Respondent No. 1, vide its letter No. 12(01)/2014-D (Pen/Pol) dated 26.02.2014 to the Controller General of Defence Accounts, directed the latter to work out the modalities for executing the decision

to implement OROP from the financial year 2014-2015, in consultation with ex-servicemen, service headquarters, and Respondent No's 1 and 2. This Executive order was never implemented, perhaps, as elections were due in April-May 2014.

10.07.2014 The Hon'ble Finance Minister in his Budget Speech 2014-2015 reaffirmed the Government's commitment to the brave soldiers of the nation, declared that a policy of OROP has been adopted by the Government to address pension disparities, and proposed to set aside a further sum of Rs. 1,000 crores to meet that year's requirement.

02.12.2014 The Hon'ble Minister of State for Defence in a written reply to Shri Rajeev Chandrashekhar (Member of Parliament) in Rajya Sabha stated that OROP implies that uniform pension be paid to retired servicemen retiring in the same rank with the same length of service irrespective of their date of retirement and any future enhancement in the rates of pension to be "automatically" passed on to the past pensioners. This definition of OROP is same as the one recorded in the aforesaid minutes of the meeting chaired by the Hon'ble Defence Minister on 26.02.2014.

- 16.05.2014 The present BJP Government was sworn in. It approved OROP in its budget on 10.06.2014 and allotted Rs. 1000 crores for OROP. However, no further Executive orders for implementation of OROP were passed despite the Hon'ble Prime Minister promising that sufficient funds have been allotted for OROP.
- 15.08.2015 The Hon'ble Prime Minister again promised in his Independence Day address at the Red Fort that OROP would soon be given.
- 07.11.2015 The Joint Secretary of Respondent No. 1 issued a letter to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff bearing reference 12(1)/2014/D(Pen/Pol)-Part-II regarding decision taken on OROP. It is submitted that the settled and true definition of OROP was arbitrarily altered by such letter, since it perversely described OROP as uniform payment of pension to retired servicemen *"retiring in the same rank with the same length of service, regardless of their date of retirement, which implies bridging the gap between the rates of pension of current and past pensioners at periodic intervals"*. This new perverse definition of OROP does not include that any future

enhancement in the rates of pension would be "automatically" passed on to the past pensioners.

14.12.2015

A Notification bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II was issued by Respondent No. 1, which Notification arbitrarily and illegally adhered to the altered and perverse definition of OROP as reflected in letter dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II of Respondent No. 1 (supra). Such Notification also appointed a Judicial Committee headed by Justice L. Narasimha Reddy (former Chief Justice of the High Court at Patna) to examine and make recommendations on references received from the Central Government on measures for removal of anomalies that may arise during the implementation of the letter dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II of Respondent No. 1.

25.01.2016

Petitioner No. 1 wrote to the Hon'ble Defence Minister underscoring that Respondent No. 1 had changed the true definition of OROP. In such letter, Petitioner No. 1 underscored that the definition of OROP on 26.02.2014 included that future enhancements in the rate of pension would

be "automatically" passed on to past pensioners, while the new perverse definition observed in correspondence of Respondent No. 1 (including in the letter bearing reference 12(1)/2014/D(Pen/Pol)-Part-II dated 07.11.2015) deviated from the "automatic" mechanism and was restricted to bridging the gap between the rates of pension of current and past pensioners at "periodic intervals".

03.02.2016 Respondent No. 1 issued a letter to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff bearing reference 12(1)/2014/D(Pen/Policy)-Part-II regarding decision taken on OROP, whereby the perverse definition of OROP was adhered to.

25.03.2016 Petitioner No. 1 wrote a letter to Justice L. Narasimha Reddy through the Hon'ble Minister of Defence, underscoring the anomalies of the revised definition of OROP and the issues in the implementation of OROP as proposed by the Central Government.

March 2013 to

May 2013 No response has been received to the letter of Petitioner No. 1 dated 25.03.2016.

13.09.2016 Respondent No. 2 published GOI, MOD letter No. 1(2)/2016-D (Pen/Pol) dated 30th September 2016 titled Revision of pension of pre-2006 pensioners (JCOs/ORs and Commissioned Officers) -delinking of qualifying service of 33 years for revised pension; revising minimum guaranteed retiring/service pension. It would be pertinent to note that revised pensions, however have been derived from old pensions that do not implement the OROP scheme.

30.09.2016 Respondent No. 1 published Resolution No. 17(1)/2014/D(Pension/Policy) relating to revised provisions regarding retirement/pension benefits of ex-servicemen.

29.10.2016 Pursuant to Resolution No. 17(1)/2014/D(Pension/Policy) dated 30.09.2016 (supra), Respondent No. 1 issued a letter bearing reference No. 17(01)/2016-D(Pen/Pol) to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff informing them about the implementation of the Government's decision on the recommendations of the Seventh Central Pay Commission regarding revision of pension of pre-

2016 defence forces pensioners and family pensioners. The said letter indicates that the existing pension will be revised upwards by multiplying basic pension drawn on 31.12.2015 by 2.57. However, it completely fails to address the promise of One Rank One Pension that is already due to the ex-servicemen in terms of the letter of Respondent No. 1 dated 26.02.2014 (supra). The Respondents continue to deny One Rank One Pension to ex-servicemen in violation of the judgment of this Hon'ble Court in *Union of India v. SPS Vains* (supra).

Subsequent Development-

As on 23.12.2016 The Armed Forces Tribunal in a Landmark decision in OA No. 802/2015 ordered the Non Functional Upgrade Scheme(NFU) to be applicable to the Defence Services. The Tribunal also acknowledged the Defence Services to be Grade 'A' Services.

Hence the present Petition.

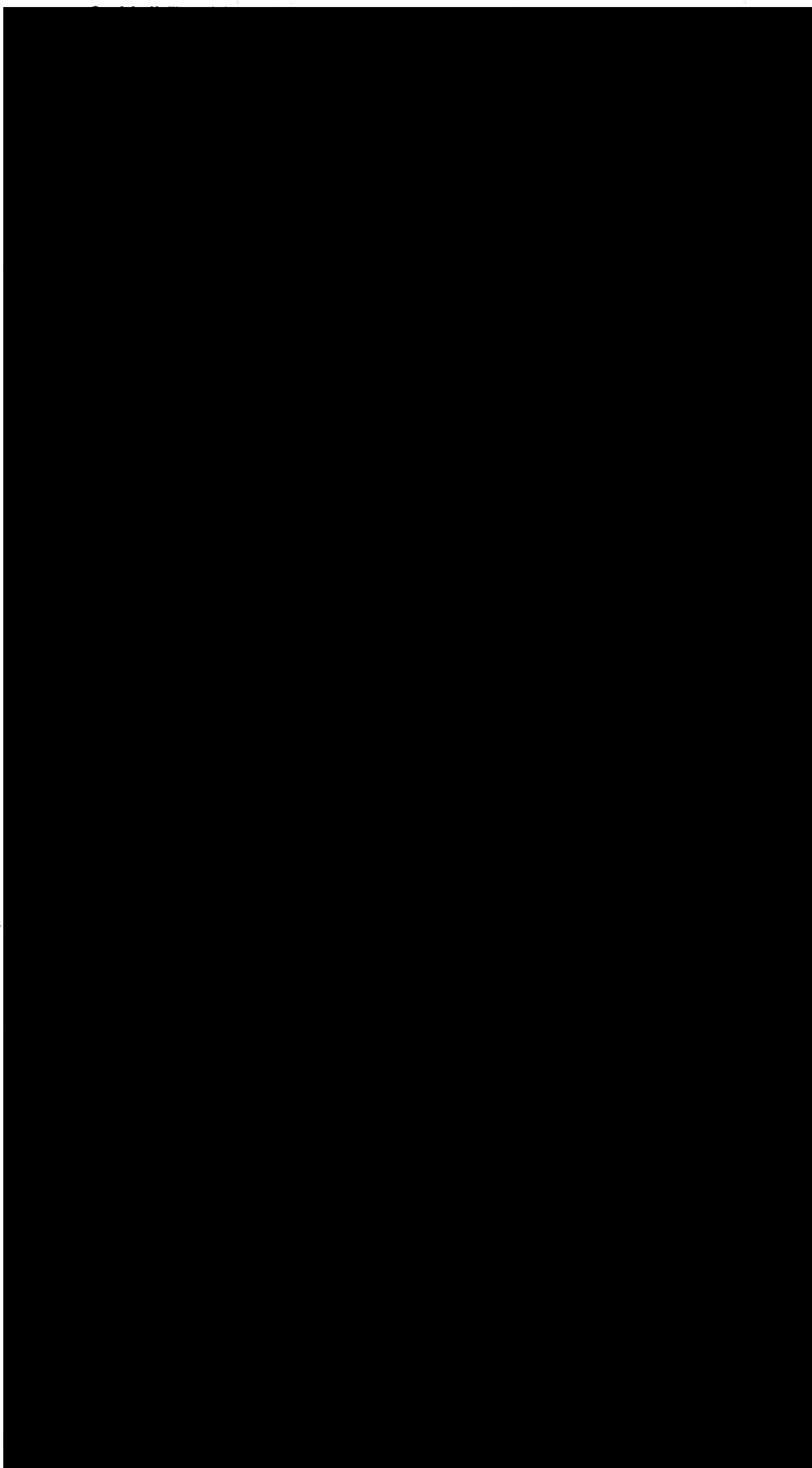
IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
(ORDER XXXVIII, S.C.R, 2013)
UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA
WRIT PETITION (CIVIL) NO. OF 2017

IN THE MATTER OF:

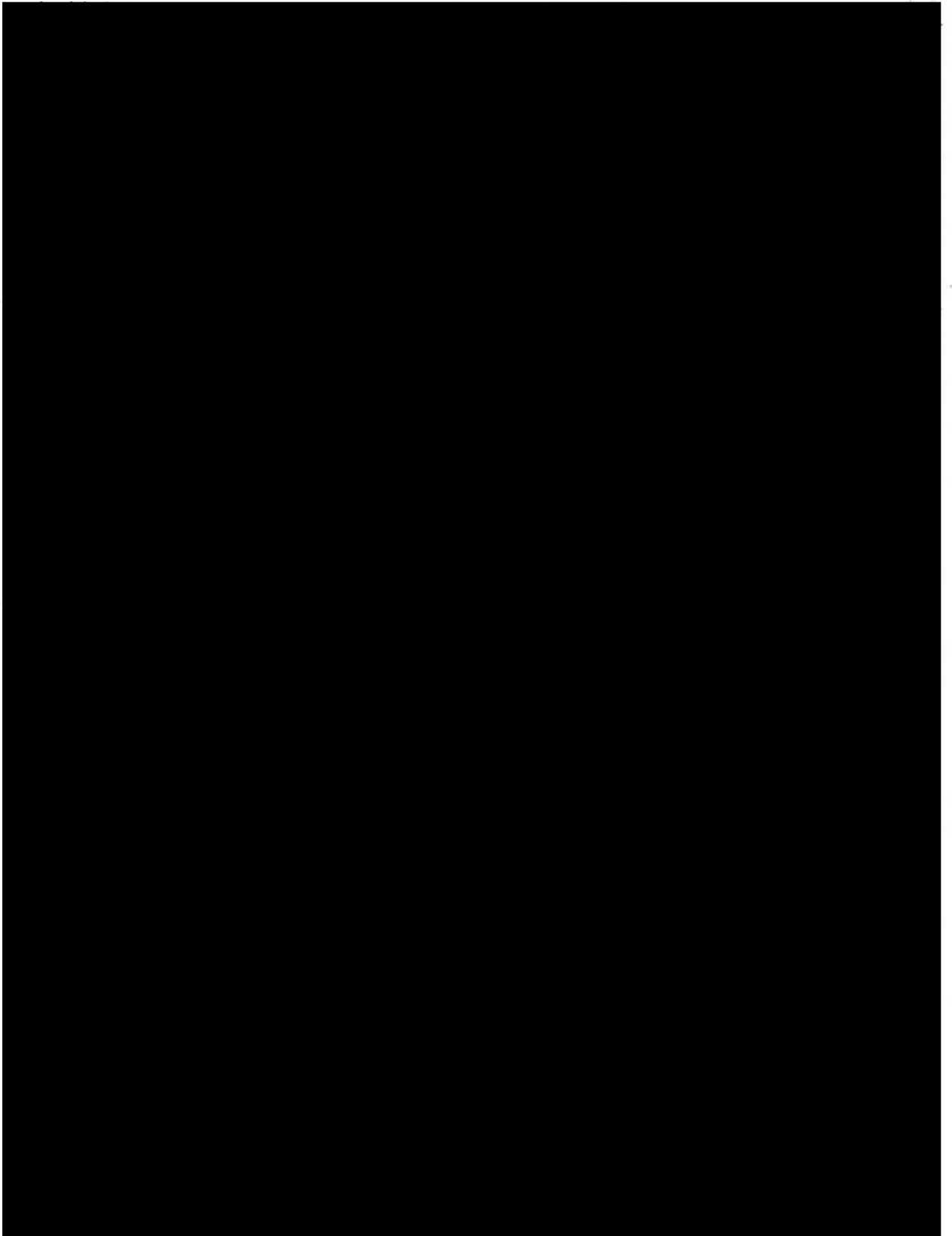
1. Indian Ex Servicemen Movement
(An All India Federation of Military Veterans' Organisation)
Represented by its General Secretary
543, Sector 23,
Gurgaon 122017
Haryana

... Petitioner No. 1





Versus



AMENDED WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA SEEKING A WRIT OR ORDER OR
DIRECTION IN THE NATURE OF MANDAMUS DECLARING NON-
IMPLEMENTATION OF "ONE RANK ONE PENSION" FOR EX-
SERVICEMEN OF THE THREE DEFENCE SERVICES.

PURSUANT TO THE NOTIFICATION OF RESPONDENT NO. 1
DATED 14.12.2015 BEARING REFERENCE NO. 12(01)/2014-
D(PEN/POL)-PART-II, AS ARBITRARY, ILLEGAL
AND UNCONSTITUTIONAL FOR BEING VIOLATIVE OF ARTICLES
14 AND 21 OF THE CONSTITUTION, AND TO PASS SUCH
FURTHER ORDERS AS THIS HON'BLE COURT MAY DEEM
APPROPRIATE TO PROVIDE A LIFE OF DIGNITY TO EX-
SERVICEMEN OF THE INDIAN DEFENCE SERVICES

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS
COMPANION JUDGES OF THE SUPREME COURT OF
INDIA

THE HUMBLE PETITION OF THE PETITIONERS ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. This is a Writ Petition under Article 32 of the Constitution of India praying for a direction against the Union of India and others seeking a writ or order or direction in the nature of mandamus declaring non-implementation of "One Rank One Pension" for ex-servicemen of the three defence services, pursuant to the Notification of Respondent No. 1 dated 14.12.2015 bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II, as arbitrary, illegal and unconstitutional for being violative of articles 14 and 21 of the Constitution, and to pass such further orders as this Hon'ble Court may deem appropriate, to provide a life of dignity to ex-servicemen of defence services i.e., the Indian Army, the Indian Navy and the Indian Air Force. This petition is filed by the Petitioners in their individual capacity.

2. The Petitioners have not approached any other court for the reliefs claimed in the present Writ Petition. A representation *vide* letter dated 25.03.2016 underscoring the anomalies of the revised definition of One Rank One Pension and the issues in the implementation of One Rank One Pension as proposed by the Central Government (Annexure P-11) was submitted to the Ministry of Defence, but no response has been received. Further, the validity of Executive decisions/orders is under challenge and the reliefs claimed can only be granted by this Hon'ble Court.
3. Petitioner No. 1 is an all India federation of ex-servicemen's organisations as well as individual military veterans from all three defence services i.e., the Indian Army, the Indian Navy and the Indian Air Force. It is an umbrella body of ex-servicemen that aims to, *inter alia*, promote and support the welfare and interest of ex-servicemen, act as a forum for discussions of problems and vital needs of ex-servicemen, and provide ex-servicemen a unified voice on issues of national interest. It represents a large number of ex-servicemen who will be adversely affected if the reliefs sought are not granted by this Hon'ble Court.
4. Petitioner No's 2 to 11 are ex-servicemen who are seeking One Rank One Pension.

5. Respondent No. 1 (i.e., the Department of Ex-Servicemen Welfare, Ministry of Defence) deals with the formulation of policy and planning for the rehabilitation/ resettlement of ex-service personnel and pension matters of ex-servicemen, including pension grievances.
6. Respondent No. 2 (i.e., the Department of Defence, Ministry of Defence) deals with the three defence services and with inter-services organisations. It is also responsible, *inter alia*, for the Defence Budget, establishment matters, defence policy, and coordination of the activities.
7. Respondent No. 3 (i.e., the Department of Expenditure, Ministry of Finance) is the nodal department of the Ministry of Finance for overseeing the public financial management system in the Central Government and matters connected with State finances. The principal activities of Respondent No. 3 include, *inter alia*, the pre-sanction appraisal of major schemes/projects (both Plan and non-Plan expenditure), implementation of the recommendations of the Finance and Central Pay Commissions, and managing the financial aspects of personnel management in the Central Government.
8. Respondent No. 4 (i.e., the Controller General of Defence Accounts) is the head of the Defence Accounts Department, which functions under the administrative control of the

Financial Adviser (Defence Services) and deals *inter alia* with audit, payment and accounting of all charges pertaining to the Armed Forces, including bills for pay and allowances, miscellaneous charges, pensions, etc.

9. Respondent No. 5 (i.e., the Chiefs of Staff Committee) is comprised of the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff, and the Chief of Integrated Defence Staff (non-voting member). It is the authority for advising the Defence Minister and, through him, the Cabinet Committee on Political Affairs on all military matters which require ministerial consideration. The Integrated Defence Staff is the principal arm and the Secretariat to the Chiefs of Staff Committee. The Chief of Integrated Defence Staff supports the Chiefs of Staff Committee and its Chairman in the performance of their role and functions.

BACKGROUND

10. In a nutshell (the details are set out in the following paragraphs), the soldiers of our defence forces were receiving the same pension if they retired in the same rank with the same length of service. This continued until 1973 i.e., for 26 years after the nation's Independence. However, the Third Central Pay Commission took an arbitrary and ex-parte decision against the then existing One Rank One Pension formula (also, known as OROP), thereby not only reducing

the pay of soldiers drastically but also creating a situation of "one rank different pensions" among soldiers. Thus, the demand for One Rank One Pension started in 1973. However, after decades of discontent with the government policies and bureaucratic apathy, the demand gathered momentum in 2008, when ex-servicemen were constrained to return their service and gallantry medals owing to the indifferent attitude of the Government to grant One Rank One Pension while the pay/pension/career-progression of various civilian Government servants was controversially and dramatically enhanced by the UPA Government. To add insult to injury, the Government took no steps towards implementation of the long standing demand for One Rank One Pension. Here, it is relevant to underscore that the protest surrounding One Rank One Pension is not merely about pension, but the far larger issues of justice, equity, and *izzat* (honour). In 2011, the Koshyari Committee was scathingly critical of the various administrative, logistic, legal, financial and other difficulties cited by the Government in implementation of One Rank One Pension and strongly recommended implementation of One Rank One Pension. Funds for the same were proposed to be earmarked in the Interim Budget Speech and the Budget Speech for 2014-2015. A high level meeting chaired by the Hon'ble Defence Minister (and attended by most senior bureaucrats from

various Ministries) decided to implement One Rank One Pension in its true sense on 26.02.2014, but the Government later tried to disgracefully wriggle out of the decision by altering the very definition of One Rank One Pension through various illegal letters/ clarifications/ conditions that were arbitrarily introduced through a letter of Respondent No. 1 dated 07.11.2015 and a Notification dated 14.12.2015. This underhand and arbitrary manner of defeating the spirit of One Rank One Pension does great disservice to 24 lakh ex-servicemen, 6.5 lakh war widows and veteran widows, and their families by creating a situation of "one rank different pensions". In any event, the present proposal of the Government to implement a perverse version of One Rank One Pension creates "one rank different pensions" and classes within a class, which has been declared unconstitutional and illegal by this Hon'ble Court. It is in this context that the present Petition came to be preferred and the detailed background is set out in the following paragraphs.

11. The oath of duty of soldiers involve going wherever ordered, by land or sea or air, and observe and obey all the commands of the President of the Union of India and the commands of any officer set above them, even to the peril of their lives. It comes naturally to these fine sons of the nation to place the country first, the welfare of their comrades in

battle second, and their personal safety at the very end. Words cannot do justice to the glorious tradition of supreme sacrifices most readily, unquestionably, unwaveringly, and unflinchingly made by our soldiers, but it is perhaps apt to quote Lord Alfred Tennyson's immortal words:

*Theirs not to make reply,
Theirs not to reason why,
Theirs but to do and die.*

It is of paramount significance to make an attempt to understand the nature and the extent of sacrifices that are not only made by our soldiers, but are also demanded of them, if justice is to be done to the welfare of past, present, and future servicemen.

12. The nation requires the India Army, the Indian Navy, and the Indian Air Force (hereinafter, collectively referred to as the "**Defence Services**") to be lean, young, strong, and fighting fit. This critical requirement makes it necessary to mandatorily retire various classes of servicemen in various units of the Defence Services at a very early age. It is submitted that around 80 per cent of the personnel of Defence Services retire between the age of 35 and 40. Thus, while citizens in most other jobs (including government jobs) retire at least after their 60th birthday, the bulk of defence servicemen retire before the age of 40. For example, most soldiers in the Indian Army join the force at the early age of 16 to 18 and are retired after 15 years (now 20 years) of

service – while Sepoys and Naiks retire at ages 37 to 40, Havildars retire around age 45. When such servicemen are made to retire, after a service life devoid of civilian interaction and riddled with experiences that often lead to post traumatic stress disorders and physical degeneration, they naturally find it difficult to adjust to civilian life. Further, while the careers of their contemporaries are reaching new heights with the promise of further promotion and financial prosperity, servicemen retire with onerous financial obligations towards their old parents, spouse, and dependent children. This is in addition to the various physical and psychological handicaps that servicemen often acquire as a direct consequence of living under constant enemy / insurgent attacks, while serving in extremely harsh terrains that rapidly degenerate their physical faculties and even claim their lives / limbs, with comrades of their service-family making the supreme sacrifice of their lives on a regular basis in front of their eyes. It is submitted that these aspects are also of critical significance when determining the nature of justice that needs to be done to the welfare of past, present, and future servicemen. The difficult situation that retired servicemen are necessarily required to face, even after they retire from the uniform, include:

- a) physical degeneration and disorders owing to service and survival in extremely harsh terrains,

- b) loss of limbs owing to enemy fire as well as the forces of nature, like frostbites, landslides, etc.;
- c) post traumatic stress disorder, depression, anxiety disorders, and other mental disorders (including owing to the death of comrades in their arms or before their eyes);
- d) decrease in life expectancy owing to the nature and conditions of their service;
- e) sudden retirement and departure from an active life of duty at an abnormally young age when they have maximum responsibilities to family;
- f) difficulty in finding alternate employment of dignity owing to the rudimentary nature of their formal education (which is a direct consequence of their requirement to serve in uniform at an early age when their civilian contemporaries study for graduate, post-graduate and professional degrees in colleges/universities); and
- g) onerous financial burden towards ageing parents, spouses, and dependent children on a pensioner's pay,

all of which also has a tremendous adverse impact on their families, who live under constant fear of losing their son / husband / father.

All these are in addition to the fact that a soldier has a dangerously demanding job, which involves loss of various

civil liberties during service (for example, loss of freedom of speech, freedom of movement, freedom to form associations), in addition to the loss of physical safety and comfort.

13. The concept of One Rank One Pension (also known as OROP) involves uniform payment of pension to ex-servicemen who retire in the same rank with the same length of service, irrespective of their date of retirement, with any future enhancement in the rates of pension being automatically passed on to the past pensioners. This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners and also of future enhancements in the rate of pension to be automatically passed on to the past pensioners. The Third Central Pay Commission recommended that the pension of Junior Commissioned Officers and Other Ranks be reduced and, to compensate them (somewhat) for such financial loss, they be absorbed in paramilitary forces, or police forces, or public sector organisations upon their retirement. However, while the pension rates were revised downwards by the Government of India, the recommendations relating to absorption upon retirement went completely unheeded and remain unimplemented. It is relevant that the pension of civilian public servants (under the Central Government) were enhanced from 33 per cent to 50 per cent at the same time. It

is also relevant that the '33-year service rule' was introduced, which required Government employees to put in 33 years of service to earn full pension, or retire with reduced pension in the ratio of number of years of service to 33 years. While armed forces personnel were allowed a relaxation of 7 years i.e., they were declared eligible for full pension upon completion of 26 years of service, soldiers who were not even permitted to serve for 26 years (since they were mandatorily retired after 20 years of service) were provided pension that was further reduced in the ratio of 20/26 i.e., effectively, their pension was revised downwards (while the pension of Central Government employees was, simultaneously, revised upwards).

14. The demand for One Rank One Pension thus started in 1973. It is also relevant that the Government of India had accepted the recommendation of absorption of soldiers in other services upon their retirement at a very early age, but the same was not implemented (although a handful of veterans were absorbed in paramilitary forces and other services). It is submitted that this situation of dissatisfaction among the defence forces and agitation by ex-servicemen is a matter of grave concern since it adversely affects the morale of the defence forces, creates unrest among some of the most disciplined and apolitical members of the society, lowers the esteem of serving in uniform, dissuades the future

generations from serving in the defence services, and places the nation in a very disgraceful position, not to mention that it violates equities and reflects a failure of good governance.

15. In 2008, after decades of failed attempts to get the Central Government to address ex-servicemen's grievances under the banner of One Rank One Pension (OROP), the OROP protest movement gained momentum following the decision of the United Progressive Alliance Government to controversially sanction a career path for all civil servants and Indian Police Service officers that:

- a) ensured all senior civilian Government officers retire at the highest pay grade called the Apex Pay Grade (Rs 80,000);
- b) created hundreds of new posts of secretaries, special secretaries, director general of police (DGP) at the Apex Pay Grade level;
- c) upgraded scores of police posts to director general - Apex Pay Grade level, so as to ensure that all police officers retire at the highest pension scale;
- d) rewarded all Class I civil services including the Indian Police Service with Non-functional Financial Upgradation (NFU) to ensure that all of them get automatic time bound pay / promotions and also, irrespective of job title or responsibility, retire at the pay and pension of

Armed Forces Lieutenant General i.e., the highest rank in the Indian Army after the apex rank of General (thus, adversely affecting officers of the Defence Services).

No reasoning or explanation was given for the decision to implement NFU (except that it would "alleviate stagnation in the civil services"), although such decision had the effect of arbitrarily and discriminatorily down-grading the pay grades, allowances, pension and status of the Defence Services. It is also relevant that NFU was refused to the Defence Services on the ground that Commissioned Officers are not Class I officers of the Central Government. It also created pay-pension-status asymmetries between defence forces and police/civil services. In this milieu of perceived discrimination and slights and dismissive response of the Government (the latter being an "immediate cause"), ex-servicemen accelerated their campaign for One Rank One Pension in the latter half of 2008 through nationwide public protests, which included hunger strikes. Veterans who served the nation with honour were also constrained to return their hard earned service and gallantry medals to the President of India (around 22000 medals have been deposited with the President of India). It is submitted that the reasons that led to the intensified protest for One Rank One Pension are not pension alone, but the far larger issues of justice, equity, *izzat* (honour), and national security.

It is relevant to underscore that there is no international precedent for the NFU scheme which has wide-ranging financial, organizational, and governance implications. It is submitted that two members of the Seventh Central Pay Commission, in the Report submitted to the Government on 19.11.2015, have been very critical of the NFU scheme and have noted that the exclusion of Defence Services from NFU by the Government was unfair. Reviewing the implementation of NFU, they have concluded that the Indian bureaucracy and police have set a world record for career progression in government bureaucracies by recklessly de-linking promotions from career progression. It is submitted that ex-servicemen were constrained to surrender their hard earned service and gallantry medals to the President of India (around 22000 medals have been deposited with the President of India) to exhibit their discontent with the government policies and bureaucratic apathy, which was noted later, as a matter of serious concern, by the Koshiyari Committee (infra).

16. In 2010-11, the Parliament examined the issue of One Rank One Pension for ex-servicemen. On 19.12.2011, the Rajya Sabha Committee on Petitions presented its 142nd Report on the Petition Praying for Grant of One Rank One Pension to the Armed Forces Personnel (also known, and hereinafter referred to, as the "Koshiyari Committee Report"). The Committee (also known, and hereinafter

referred to, as the "Koshyari Committee"), which consisted of ten Members of Parliament drawn from all the major political parties, found merit in the demand for One Rank One Pension and strongly recommended that, the Government should implement One Rank One Pension in the Defence Services across the board at the earliest. It is submitted that the Central Government had cited various administrative, logistic, financial and other difficulties in implementation of One Rank One Pension, which were considered, examined, and overruled by the Koshyari Committee. It is submitted that the Koshyari Committee found, *inter alia*, that:

- a) Measure have been taken by the Government to address the demand for One Rank One Pension, by constituting various Committees (the Third Central Pay Commission, the Fourth Central Pay Commission in 1986, the Sharad Pawar Committee in 1991, the Fifth Central Pay Commission in 1996, the Inter-Ministerial Committee in 2003, the Group of Ministers in 2005, the Sixth Central Pay Commission and finally the Cabinet Secretary Committee), which indicates that there is merit in the demand for One Rank One Pension, otherwise the matter would not have been considered time and again but would have been rejected once and for all and the principle of *res judicata* would have been applied to such demand for

One Rank One Pension - hence, it definitely deserves the attention of the Parliamentary Committee as well as the Government;

- b) One Rank One Pension was in vogue till 1973 when the Third Central Pay Commission took *ex-parte* decision against One Rank One Pension formula, which was working satisfactorily for more than 26 years after the country's Independence, and the submissions of the Ministries citing various difficulties in implementation of One Rank One Pension is a typical example of bureaucratic apathy which harms the soldiers who serve the nation with utmost devotion and selflessness while their demands are consistently ignored, not by the heads of Defence Services but by the bureaucrats; and
- c) the stand of the Ministries, that if One Rank One Pension is implemented similar demands may be raised by the civilian Government employees, is a baseless apprehension "*as soldiering is a different profession*" and soldiers retire by rank while civilian Government employees retire by age and the terms and conditions of service of the armed forces are tougher and harsher than the civilian Government employees (restrictions on fundamental rights, risk to life, work under severe strain and sense

of insecurity with undefined and unlimited working hours, transfers and dislocation along with bleak career prospects, difficult family life), which makes service as a soldier different and distinguishable from serving as a civilian Government employee.

It is submitted that the Koshyari Committee was "*distressed to note that the defence personnel of our country have returned their service medals to the President of India in view of the Government's apathetic attitude towards their demand of grant of OROP*" and it observed / recommended, *inter alia*, that:

- a) a sum of Rs.1300 crores being the total financial liability for the year 2011-12 in case One Rank One Pension is implemented fully for all the defence personnel in the country across the board, which sum is not a very big amount for a country of our size and economy for meeting the long pending demand of the armed forces of the country, especially keeping in view the objective for which it would be spent;
- b) it is the Officers' category that remains much behind the target in terms of One Rank One Pension- keeping in mind the fact that Officers constitute a small proportion of the entire defence force and only a small proportion of the funds needed (i.e., 235crores out of 1300 crores) stand allocated to their share for

implementing the demand in the officers' category, One Rank One Pension may be implemented so as to keep up the morale of the service, especially considering the fact that there are large numbers of vacancies in the defence services at the Officer's level and there is a need to make their service conditions more acceptable and attractive;

- c) the Committee is not convinced with the version of the Ministry of Finance that the grant of One Rank One Pension to the defence personnel would eventually generate similar requests from the civilian work force of the country under the Central Government and the State Governments, and the Committee feels so in view of the significantly different terms and conditions of service of the two different categories of employments, and our defence personnel should not feel alienated to such extent again that they are forced to surrender their hard earned service medals to exhibit their discontent with the government policies;
- d) nothing has been brought before the Committee which could explain or justify the circumstances in which the same criteria as applicable to the country's civilian work force was applied to the defence personnel for the purpose of determining their pay, allowances, pension, family pension, etc. by the Third Central Pay

Commission and the necessity and justification for bringing about the change was neither explained nor justified;

- e) the decision of the Government to bring our defence personnel on the pattern of the civilians with regard to their pay, pension, etc. (from Third Central Pay Commission onwards) is not a considered decision which has caused hardship to the defence personnel and has given birth to their demand for One Rank One Pension;
- f) the reduction of around 26 pay scales into IV pay bands on the recommendations of the Sixth Central Pay Commission has aggravated the grievances of defence personnel - for example, after the Sixth Central Pay Commission, officers from the level of Lt. Colonel and above fall in a single pay band i.e. pay band IV, carrying pay scale of 37400 to 67000, which means that defence retirees of earlier years from different ranks would get pension with reference of the minimum of the pay band irrespective of the fact whether they held much higher rank of Major General or Lt. General when they retired, thus, the past retirees and particularly those who retired from senior level posts remain at a disadvantaged position under the

existing dispensation pursuant to the Sixth Central Pay Commission; and

- g) the Committee is not convinced with the hurdles projected by the Ministry of Defence (Department of Ex-Servicemen Welfare) in implementing of One Rank One Pension for defence personnel and the administrative, legal and financial hurdles cited by the Ministry are not justified.

A true copy of the 142nd Report on the Petition Praying for Grant of One Rank One Pension to the Armed Forces Personnel presented by the Rajya Sabha Committee on Petitions on 19.12.2011 (the Koshyari Committee Report) is attached as Annexure P-1 (Pg 73 to 100).

17. During his election campaign, Mr. Narendra Modi (then candidate for Prime Minister and presently the Hon'ble Prime Minister of India) and Mr. Raj Nath Singh (then National President of the Bharatiya Janata Party (hereinafter, the "BJP") and presently the Hon'ble Home Minister) promised that One Rank One Pension will be implemented immediately after the BJP came to power. Such promise was made at a rally of ex-servicemen at Rewari on 15.09.2013, arguably with a view to garner large number of votes from servicemen, ex-servicemen (24 lakhs), war widows and veteran widows (6.5 lakhs), and their families.

18. On 17.02.2014, the Hon'ble Finance Minister in his Interim Budget Speech 2014-2015 announced that the Government of India has accepted the principle of One Rank One Pension for the Defence Services. The Hon'ble Finance Minister noted that the long standing demand of the Defence Services for One Rank One Pension has legal implications and has to be handled with great sensitivity. He further noted that the nation needs a young fighting force and also needs to take care of those who serve in the Defence Services only for a limited number of years. The Finance Minister went on to announce that the Government has decided to *"walk the last mile and close the gap for all retirees in all ranks"* and he was happy to announce that Government has accepted the principle of One Rank One Pension for the defence forces, which decision will be implemented prospectively from the financial year 2014-15. It was also announced that the requirement for 2014-15 is estimated at Rs. 500 crore and, as an earnest of the UPA Government's commitment, a sum of Rs. 500 crores was proposed to be transferred to the Defence Pension Account in the current financial year itself. An increase in the allocation for defence by 10 percent (from Rs. 203,672 crores to Rs. 224,000 crores) and a modernisation plan at a cost of Rs. 11,009 crore to strengthen the capacity of Central Armed Police Forces and to provide them state-of-the-art equipment and technology was also announced.

A true copy of relevant extracts of the Interim Budget Speech 2014-2015 of the Hon'ble Finance Minister dated 17.02.2014, which *inter alia* announced that the Government of India has accepted the principle of One Rank One Pension for the Defence Services, is attached as Annexure P-2(Pg 101 to 102).

19. In pursuance of the Government's decision to implement One Rank One Pension, a meeting to discuss One Rank One Pension was convened on 26.02.2014 at Room 103 of South Block, which meeting was chaired by the Hon'ble Defence Minister. The Defence Secretary, the Secretary to the Department of Ex-Servicemen Welfare, the Controller General of Defence Accounts, the three Vice Chiefs of Staff, and senior officers of the Service Headquarters along with the concerned Joint Secretaries attended such meeting. The minutes of the meeting indicate that *"It was noted that "One Rank One Pension(OROP) implies that uniform pension be paid to the Armed Forces personnel retiring in the same rank with the same length of service irrespective of their date of retirement and any future enhancement in the rates of pension to be automatically passed on to the past pensioners. This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners and also of future enhancements in the rate of pension to be automatically passed on to the past pensioners". It is*

submitted that this true definition of One Rank One Pension is of critical significance to the present Petition, especially the use of the word "automatically". The minutes of the meeting also record that the Government's commitment to implement One Rank One Pension was reaffirmed by the Hon'ble Defence Minister, who *"specifically indicated that the FM had also clarified that the figure of Rs. 500 crores made available was only indicative and even if more funds are required, the same would be made available."* The minutes of the meeting further indicate that the Controller General of Defence Accounts (Respondent No. 4 herein) was directed initiate necessary steps to give effect to the decision to implement One Rank One Pension, in consultation with the three Defence Services (and ex-servicemen) as well as Respondent No's 1 and 2.

A true copy of the minutes of the meeting chaired by the Hon'ble Defence Minister on 26.02.2014 at Room 103 of South Block, which reflects the Government's decision to implement One Rank One Pension, is attached as Annexure P-3(Pg103 to 104).

20. Pursuant to the aforesaid meeting on 26.02.2014, wherein a decision was taken to implement the principle of One Rank One Pension for all ranks of the Defence Services, Respondent No. 1, *vide* its letter No. 12(01)/2014-D (Pen/Pol) dated 26.02.2014 to the Controller General of Defence

Accounts, directed the latter to work out the modalities for executing the decision to implement One Rank One Pension from the financial year 2014-2015, in consultation with ex-servicemen, service headquarters, and Respondent No's 1 and 2. It is submitted that this Executive order was never implemented, perhaps, as elections were due in April-May 2014.

A true copy of the Executive order of Respondent No. 1, *vide* its letter No. 12(01)/2014-D (Pen/Pol) dated 26.02.2014 to the Controller General of Defence Accounts, directing the latter to work out the modalities for executing the decision to implement One Rank One Pension from the financial year 2014-2015, is attached as Annexure P-4(Pg105 to 106).

21. On 10.07.2014, the Hon'ble Finance Minister in his Budget Speech 2014-2015 reaffirmed the Government's commitment to the brave soldiers of the nation, declared that a policy of One Rank One Pension has been adopted by the Government to address pension disparities, and proposed to set aside a further sum of Rs. 1,000 crores to meet that year's requirement.

A true copy of true copy of the relevant extracts of the Budget Speech 2014-2015 of the Hon'ble Finance Minister dated 10.07.2014, which *inter alia* declared that a policy of One

Rank One Pension has been adopted by the Government to address pension disparities, is attached as Annexure P-5 (Pg 107to 108).

22. On 02.12.2014, the Hon'ble Minister of State for Defence in a written reply to Shri Rajeev Chandrashekhar (Member of Parliament) in Rajya Sabha stated that One Rank One Pension implies that uniform pension be paid to retired servicemen retiring in the same rank with the same length of service irrespective of their date of retirement and any future enhancement in the rates of pension to be "automatically" passed on to the past pensioners. It is submitted that this definition of One Rank One Pension is same as the one recorded in the aforesaid minutes of the meeting chaired by the Hon'ble Defence Minister on 26.02.2014 at Room 103 of South Block (wherein the Defence Secretary, the Secretary to the Department of Ex-Servicemen Welfare, the Controller General of Defence Accounts, the three Vice Chiefs of Staff, and senior officers of the Service Headquarters along with the concerned Joint Secretaries were also present)and wherein the Government's decision to implement One Rank One Pension was recorded. It is also emphasised that this definition involves "automatic" enhancement in the rates of pension being passed on to past pensioners whenever there is any enhancement in the rates of pension.

A True copy of the written reply dated 02.12.2014 of the Hon'ble Minister of State for Defence providing the true definition of One Rank One Pension to Shri Rajeev Chandrashekhar (Member of Parliament) in Rajya Sabhais attached as Annexure P-6(Pg109).

23. The present BJP Government was sworn in on 16.05.2014. It approved One Rank One Pension in its budget on 10.06.2014 and allotted Rs. 1000 crores for One Rank One Pension. However, no further Executive orders for implementation of One Rank One Pension were passed despite the Hon'ble Prime Minister promising that sufficient funds have been allotted for One Rank One Pension, which promise was made in 2014 on the eve of Diwali to the troops of the Indian Army at Siachen and also to troops of the Indian Navy on INS Vikramaditya.
24. On 15.08.2015, the Hon'ble Prime Minister again promised in his Independence Day address at the Red Fort that One Rank One Pension would soon be given. It is submitted that the Hon'ble Defence Minister had worked out a package with an expected outlay of Rs. 8296.40 crores per annum, which package satisfies the aspiration of the veterans' community regarding One Rank One Pension.

25. On 07.11.2015, the Joint Secretary of Respondent No. 1 issued a letter to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff bearing reference 12(1)/2014/D(Pen/Pol)-Part-II regarding decision taken on One Rank One Pension. It is submitted that the settled and true definition of One Rank One Pension was arbitrarily altered by such letter, since it described One Rank One Pension as uniform payment of pension to retired servicemen *"retiring in the same rank with the same length of service, regardless of their date of retirement, which implies bridging the gap between the rates of pension of current and past pensioners at periodic intervals"*. It is submitted that this new perverse definition of One Rank One Pension does not include that any future enhancement in the rates of pension would be "automatically" passed on to the past pensioners. Thus, it did great injustice in the most perverse and arbitrary fashion to 24 lakh ex-servicemen, 6.5 lakh war widows and veteran widows, and their families by creating a situation of "one rank different pensions", which is not permissible in view of the judgment of this Hon'ble Court in ***Union of India v. SPS Vains, (2008) 9 SCC 125*** wherein it was held that creation of a class within a class is illegal, unconstitutional and violative of the Fundamental Rights guaranteed by the Constitution. It is submitted that this new perverse definition was brought around arbitrarily by Respondent No. 1 and it

deviated from the true definition of One Rank One Pension previously settled in the meeting dated 26.02.2014 (supra), which meeting was chaired by the Hon'ble Defence Minister. It is also submitted that this new perverse definition of One Rank One Pension also deviated from the true definition of One Rank One Pension set out in the letter of Respondent No. 1 bearing reference No. 12(01)/2014-D (Pen/Pol) dated 26.02.2014 to the Controller General of Defence Accounts (supra). It is further submitted that the new (revised)perverse definition of One Rank One Pension will lead to a situation where the pension drawn by an ex-serviceman who retired earlier will be less than the pension drawn by an ex-serviceman who retires in 2014, until such time an annual a "periodic" review is done to correct the anomaly. Thus, it will create a class within a class (i.e. among ex-servicemen who retired with the same rank with the same length of service, some will receive higher pension and some will receive lower pension, based on the date of their retirement), which differentiation leads to "one rank different pensions" and is arbitrary and impermissible. This Hon'ble Court has already held in ***Union of India v. SPS Vains***(supra)that such creation of class within a class is illegal, unconstitutional and violative of the Fundamental Rights guaranteed by the Constitution. It is submitted that, even if the differential / lower payment is rectified by payment of arrears at a later date (consequent to

a "periodic" review), it would lead to injustice since most ex-servicemen draw a basic pension of less than Rs. 10000 i.e., their pension is so low that late payment of arrears would be neither just nor reasonable / equitable.

Also, in such letter Respondent No. 1 regarding decision taken on One Rank One Pension dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II, it was stated that a decision has been taken to implement One Rank One Pension for ex-servicemen with effect from 01.07.2014. It is submitted that the date 01.07.2014 is arbitrary and it is also deviated from the decision to implement One Rank One Pension from financial year 2014-2015. In other words, the effective date of implementation of One Rank One Pension was already fixed as 01.04.2014 and that date could not have been arbitrarily re-fixed by the letter of Respondent No. 1 dated 07.11.2015.

Further, in the letter of Respondent No. 1 regarding decision taken on One Rank One Pension dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II, the salient features of One Rank One Pension were set out in five points, which have the effect of destroying the spirit of One Rank One Pension. It is submitted that the first point was that the pension of past pensioners would be re-fixed on the basis of pension of retirees of calendar year 2013 and the benefit will

be conferred with effect from 01.07.2014. The second point was pension will be re-fixed for all pensioners on the basis of the average of minimum and maximum pension of personnel retired in 2013 in the same rank and with the same length of service. The third point was the pension of those drawing above the average would be protected. The fourth point relates *inter alia* to payment of arrears in four equal half yearly instalments. The fifth point was pension would be re-fixed every five years.

It is submitted that the pension of soldiers retiring on/after 01.04.2014 will be fixed on the basis of the last pay drawn on the date of his retirement. The true definition of One Rank One Pension requires that the pension of past pensioners who retired earlier than 2013, must be fixed equal to the ones retiring with the same rank and the same length of service on/after 01.04.2014. It is therefore submitted that the proposed re-fixation on the basis of the pension of retirees of calendar year 2013 (i.e., the first point of the letter dated 07.11.2015) does violence to One Rank One Pension in the most arbitrary and perverse fashion. Similarly, re-fixation of pension for all pensioners on the basis of the average of minimum and maximum pension of personnel who retired in 2013 in the same rank and with the same length of service (i.e., the second point of the letter dated 07.11.2015), effectively, further lowers the pension of past pensioners as

compared to the ones retiring on/after 01.04.2014. This results in past pensioners who retired with the same rank and the same length of service drawing lesser pension than the soldiers retiring on/after 01.04.2014. Further, in some cases, even the past pensioners who retired with a senior rank, will draw lesser pension than soldiers retiring with a junior rank on/after 2014. It is also pertinent that "periodic" re-fixation of pension every five years (i.e., the fifth point of the letter dated 07.11.2015), whereby an ex-serviceman receives lesser pension than another who retired with the same rank and same length of service (and, in some cases, even retired with a lower rank), introduces "one rank different pension" since the future enhancement in the rates of pension are not being "automatically" passed on to the past pensioners.

For these reasons, it is submitted that the implementation of One Rank One Pension in terms of the letter dated 07.11.2015 effectively puts the concept of One Rank One Pension to the grave and it is not only arbitrary and unconstitutional but also a moral failure of the Government, not to mention the insult it causes to the injury already afflicted on our soldiers and their families since 1973. It is therefore submitted that the conditions introduced by the letter dated 07.11.2015 described in this paragraph completely slaughter the spirit of One Rank One Pension and

arbitrarily changes the date of implementation of One Rank One Pension. It is also of utmost relevance to appreciate that the financial loss caused by this perverse, arbitrary and illegal implementation of One Rank One Pension, especially with effect from 01.07.2014 (i.e. a deprivation of 3 months), causes financial loss to 24 lakh ex-servicemen and 6.5 lakh war widows and veteran widows to whom such sums of money make a lot of difference.

A true copy of the letter bearing reference 12(1)/2014/D(Pen/Pol)-Part-II dated 07.11.2015 of Respondent No. 1, regarding decision taken on One Rank One Pension, to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff, is attached as Annexure P-7(Pg 110 to 112).

26. On 14.12.2015, a Notification bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II was issued by Respondent No. 1, which Notification arbitrarily and illegally adhered to the altered and perverse definition of One Rank One Pension as reflected in letter dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II of Respondent No. 1 (supra). Such Notification also appointed a Judicial Committee headed by Justice L. Narasimha Reddy (former Chief Justice of the High Court at Patna) to examine and make recommendations on references received from the Central

Government on measures for removal of anomalies that may arise during the implementation of the letter dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II of Respondent No. 1. It is submitted that the Judicial Committee's terms of reference is restricted to the perverse and arbitrary definition of One Rank One Pension, which will lead to recommendations that are unsuitable and against the spirit of One Rank One Pension. It is further submitted that, in terms of the letter dated 07.11.2015 and the Notification dated 14.12.2015, many soldiers with a senior rank will receive lesser pension than soldiers with a junior rank. It is therefore submitted that the Notification dated 14.12.2015 is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution, and contrary to the principle laid down by this Hon'ble Court in *Union of India v. SPS Vains* (supra). It is further submitted that the Notification dated 14.12.2015 is also not in the spirit of the true definition of One Rank One Pension.

A true copy of the Notification dated 14.12.2015 bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II issued by Respondent No. 1, which arbitrarily altered the true definition of One Rank One Pension and appointed a Judicial Committee to examine the measures for removal of anomalies in implementation of the revised scheme of One

Rank One Pension, is attached as Annexure P-8(Pg 113 to 114).

27. On 25.01.2016, Petitioner No. 1 wrote to the Hon'ble Defence Minister underscoring that Respondent No. 1 had changed the true definition of One Rank One Pension. In such letter, Petitioner No. 1 underscored that the definition of One Rank One Pension on 26.02.2014 included that future enhancements in the rate of pension would be "automatically" passed on to past pensioners, while the new perversedefinition observed in correspondence of Respondent No. 1 (including in the letter bearing reference 12(1)/2014/D(Pen/Pol)-Part-II dated 07.11.2015) deviated from the "automatic" mechanism and was restricted to bridging the gap between the rates of pension of current and past pensioners at "periodic intervals". It also underscored that the changed / later definition of One Rank One Pension involved re-fixation of pension every five years. It was submitted that such alternations completely change the original accepted definition of One Rank One Pension, would deprive past pensioners of monetary benefits, and destroy the very soul of One Rank One Pension. It was also submitted that pension equalisation every five years is against the spirit of One Rank One Pension and, in today's world of modern computing, there is no reason to not

enhance the pension of past pensioners, "automatically" and contemporaneously, whenever there is any enhancement in the rates of pension. It was also submitted that the Judicial Committee formed *vide* Notification dated 14.12.2015 bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II issued by Respondent No. 1 is based on the incorrect and perverse definition of One Rank One Pension, which would naturally lead to recommendations being made in terms of the perverse definition of One Rank One Pension, thereby leading to injustice to ex-servicemen. The Hon'ble Defence Minister was requested to correct the mistakes / deviation in the definition of One Rank One Pension and ensure that the original definition was followed.

A true copy of the letter dated 25.01.2016 of Petitioner No. 1 to the Hon'ble Defence Minister, underscoring that Respondent No. 1 had changed the definition of One Rank One Pension, is attached as Annexure P-9(Pg 115 to 119).

28. On 03.02.2016, Respondent No. 1 issued a letter to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff bearing reference 12(1)/2014/D(Pen/Policy)-Part-II regarding decision taken on One Rank One Pension. It is submitted that such letter dated 03.02.2016 of Respondent No. 1 is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution, and contrary to the principle laid down by this Hon'ble Court in

Union of India v. SPS Vains (supra), since it refers to and follows the arbitrary definition and implementation scheme of One Rank One Pension as notified by the letter of Respondent No. 1 dated 07.11.2015. In other words, the letter dated 03.02.2016, like the letter of Respondent No. 1 dated 07.11.2015 and the Notification dated 14.12.2015, implements a perverse scheme of One Rank One Pension whereby there is "periodic" enhancement in the rates of pension for past pensioners (as opposed to an "automatic" enhancement in the rates of pension being passed on to past pensioners whenever there is any enhancement in the rates of pension).

A true copy of the letter bearing reference 12(1)/2014/D(Pen/Policy)-Part-II dated 03.02.2016 of Respondent No. 1, regarding decision taken on One Rank One Pension, to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff, is attached (without annexures) as Annexure P-10(Pg 120 to 126).

29. The true definition of One Rank One Pension, which was perversely revised *vide* the letters of Respondent No. 1 dated 07.11.2015 and 03.02.2016 and the intervening Notification dated 14.12.2015, destroys the original definition and spirit of One Rank One Pension and also leads to a perverse and unjust implementation of One Rank One Pension. The

anomalies of the revised definition of One Rank One Pension and the issues in the implementation of One Rank One Pension as proposed by the Central Government were again brought to the notice of the Central Government by Petitioner No. 1 *vide* its letter dated 25.03.2016 to Justice L. Narasimha Reddy through the Hon'ble Minister of Defence. In such letter, Petitioner No. 1 submitted, *inter alia*, the following anomalies:

- a) fixation of pension is being done on the basis of calendar year 2013 instead of financial year 2014-2015;
- b) re-fixation of pension is being done on the basis of the mean / average of minimum and maximum pension of personnel retired in 2013 (instead of accepting the highest pension in each rank in order to ensure same pay for same rank, which was already discussed with the Hon'ble Defence Minister);
- c) payment of revised pension is with effect from 01.07.2014 instead of 01.04.2014;
- d) equalisation of pension at "periodic" intervals every 5 years; and
- e) errors in tables prepared by the Central Government indicating One Rank One Pension computation, wherein there are numerous instances of ex-servicemen who retired with senior rank and longer length of service being shown to be eligible for lesser

pension that ex-servicemen who retired with junior rank.

It is submitted that these anomalies, which have been created arbitrarily, are not only against the true meaning of One Rank One Pension but also unjust and unconstitutional.

In its letter dated 25.03.2016, Petitioner No. 1 also submitted the following:

- a) all Havildars who retired as Hon. Naib Subedar in view of their exemplary service should also be given pension of Naib Subedar, which is not being done;
- b) all veterans who have retired as Major after 13 years of service as Commissioned Officers (and total service more than 30 years) should be given pension of Lt. Colonel, since Commissioned Officers now automatically become Lt. Colonel after 13 years of service, which will not cause any financial burden as less than 800 Commissioned Officers have retired as Major despite 13 years of service; and
- c) similarly, all veterans who retired prior to 2004 as Lt. Colonel should be given pension of Colonel, since all Commissioned Officers now automatically retire as Colonel.

It is submitted that there is no impediment in execution of the order / decision to grant pension to all the Hon.

NaibSubedars since they have been granted the rank of Hon. NaibSubedar after their retirement in accordance with the letter of Respondent No. 1 to the Chief of Army Staff dated 12.06.2009 bearing reference No. 1 (8)/2008-D (Pen/Policy), which letter dated 12.06.2009 makes it abundantly clear that a decision has been taken to grant the benefit of Hon. NaibSubedar for the purposes of fixation of pension. It is further submitted that this decision, which was the subject of litigation, has been upheld by the Ld. Armed Forces Tribunal, Principal Bench at New Delhi *vide* Order dated 10.05.2013 in *Ex Hav. (Hon. Nb. Sub.) Ram Kanwar v. Union of India and Others, MA 243 of 2013 in OA 400 of 2012*. It is further submitted that such Order dated 10.05.2013 has attained finality after unsuccessful appeals.

It is further submitted that the Office of the Principal Controller of Defence Accounts (Pension) *vide* letter dated 27.04.2016 addressed to Captain M.G. Hegde (Retd.) refers *inter alia* to AO 56/2001 para (I), Ministry of Defence Letter No. 1(5)/87/D/(Pen/Sers) dated 30.10.1987 and PCDA(P) Letter No. 1(6)/1998/D(Pen/Ser) dated 30.02.1998 to inform and substantiate that benefit of "full" pre-commissioning service period for pension calculation is not available for all ex-servicemen and, depending on their individual dates of retirement, ex-servicemen are entitled to benefit of full, or half, or two-third pre-commissioning service period for

pension calculation in view of the recommendations of various Central Pay Commissions at different points of time.

It is submitted that this is an untenable stand and arbitrary decision since it leads to One Rank Different Pensions and creates classes within a class, which is not permissible in view of the judgement of this Hon'ble Court in *Union of India v. SPS Vains*(supra).

A true copy of the letter of Petitioner No. 1 dated 25.03.2016 to Justice L. Narasimha Reddy through the Hon'ble Minister of Defence, underscoring the anomalies of the revised definition of One Rank One Pension and the issues in the implementation of One Rank One Pension as proposed by the Central Government, is attached as Annexure P-11(Pg 127 to 132).

A true copy of the letter of Respondent No. 1 to the Chief of Army Staff dated 12.06.2009 bearing reference No. 1 (8)/2008-D (Pen/Policy), which communicates the decision to grant the benefit of Hon.NaibSubedar for the purposes of fixation of pension, is attached as Annexure P-12(Pg 133 to 134).

A true copy of the Order dated 10.05.2013 of the Ld. Armed Forces Tribunal, Principal Bench at New Delhi, in Ex Hav. (Hon. Nb. Sub.) Ram Kanwar v. Union of India and Others,

MA 243 of 2013 in OA 400 of 2012, is attached as Annexure P-13(Pg 135 to 140).

A true copy of the letter the Office of the Principal Controller of Defence Accounts (Pension) dated 27.04.2016 addressed to Captain M.G. Hegde (Retd.) informing and substantiating that ex-servicemen are entitled to benefit of full, or half, or two-third pre-commissioning service period for pension calculation depending on their individual date of retirement, is attached as Annexure P-14(Pg 140 to 143).

29A. On 13.09.2016 Respondent No. 2 published GOI, MOD letter No. 1(2)/2016-D (Pen/Pol) dated 30th September 2016 titled Revision of pension of pre-2006 pensioners(JCOs/ORs and Commissioned Officers) -delinking of qualifying service of 33 years for revised pension; revising minimum guaranteed retiring/service pension. It would be pertinent to note that revised pensions, however have been derived from old pensions that do not implement the OROP scheme.

True copy of GOI, MOD letter No. 1(2)/2016-D (Pen/Pol) dated 30th September 2016 issued by Government of India Ministry of Defence Department of Ex-Servicemen Welfare is attached herewith as Annexure P-15(Pg 144 to 149).

29B. On 30.09.2016, Respondent No. 1 published Resolution No. 17(1)/2014/D(Pension/Policy) relating to revised provisions regarding retirement/pension benefits of ex-servicemen.

A True copy of the Resolution of Respondent No. 1 dated 30.09.2016 bearing reference No. 17(1)/2014/D(Pension/Policy) issued by Government of India Ministry of Defence, is attached as Annexure P-16 (Pg 150 to 157).

29C. On 29.10.2016, pursuant to Resolution No. 17(1)/2014/D(Pension/Policy) dated 30.09.2016 (supra), Respondent No. 1 issued a letter bearing reference No. 17(01)/2016-D(Pen/Pol) to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff informing them about the implementation of the Government's decision on the recommendations of the Seventh Central Pay Commission (7CPC) regarding revision of pension of pre-2016 defence forces pensioners and family pensioners. The said letter indicates that the existing pension will be revised upwards by multiplying basic pension drawn on 31.12.2015 by 2.57. Great injustice will be done to all 24.5 lakh ex-servicemen pensioners and widow pensioners if their pension is not updated to 31.12.2015 level (at present pension is fixed at the level of mean of 2013 owing to the illegal and arbitrary letters dated 07.11.2015 (supra) and 03.02.2016 (supra) (both

also under challenge in this Writ Petition)), before multiplying with a factor of 2.57 as recommended by the Seventh Central Pay Commission to arrive at their new pension figures. Further, it completely fails to address the promise of One Rank One Pension that is already due to the ex-servicemen in terms of the letter of Respondent No. 1 dated 26.02.2014 (supra). The Respondents continue to deny One Rank One Pension to ex-servicemen. It is submitted that such letter dated 30.09.2016 of Respondent No. 1 (and the preceding Resolution dated 30.09.2016) is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution, and contrary to the principle laid down by this Hon'ble Court in *Union of India v. SPS Vains* (supra), since it continues to implement a perverse scheme whereby One Rank One Pension and proper retirement benefits are being denied to ex-servicemen.

A True copy of the letter of Respondent No. 1 dated 29.10.2016 bearing reference No.17(1)/2016-D(Pen/Pol) issued by Government of India Ministry of Defence, is attached as Annexure P-17 (Pg 158 to 169)."

30. Many soldiers are conferred an "Honourary" superior rank before or after their retirement, owing to their exemplary service or record. However, due to limited number of

vacancies, many soldiers receive their "Honourary" promotion after retirement. It is submitted that there is no just reason to deny soldiers, who receive an "Honourary" promotion after their retirement, the benefit of pension relatable to such higher rank. It is further submitted that denying such benefit leads to "one rank different pensions".

31. The Petitioners have not filed any other similar Writ either before this Hon'ble Court or any High Court praying for the same reliefs as are claimed in the present Writ Petition.
32. The present Writ Petition is filed *bona fide* and in the interest of justice.
33. The Petitioners have no adequate or equally efficacious remedy but to approach this Hon'ble Court by way of the present Writ Petition.

GROUNDS

34. One Rank One Pension involves "automatic" enhancement in the rates of pension being passed on to past pensioners whenever there is any enhancement in the rates of pension, as opposed to "periodic" enhancement in the rates of pension for past pensioners. The failure to implement this, which is causing great emotional / psychological and financial hardship to ex-24 lakh servicemen and 6.5 lakh war widows

and veteran widows, is unjust, arbitrary, and violative of Articles 14 and 21 of the Constitution.

35. The Third Central Pay Commission recommended that the pension of Junior Commissioned Officers and Other Ranks be reduced and, to compensate them (somewhat) for such financial loss, they be absorbed in paramilitary forces, or police forces, or public sector organisations upon their retirement. The Koshiyari Committee noted that the necessity and justification for bringing about the change was neither explained nor justified and it was also not a considered decision, which caused great injustice and hardship to the defence personnel and gave birth to their demand for One Rank One Pension. Further, while the pension rates were revised downwards by the Government of India, the recommendations relating to absorption upon retirement went completely unheeded and remain unimplemented, which is unjust, arbitrary, and violative of Articles 14 and 21 of the Constitution.

36. Owing to the introduction of the '33-year service rule' (26 years in case of Defence Services), personnel of Defence Services were declared eligible for full pension upon completion of 26 years of service, notwithstanding that most soldiers are not even permitted to serve for 26 years but are

mandatorily retired after 20 years of service, which is unjust, arbitrary, and in violation of Articles 14 and 21 of the Constitution.

36A. The Government has now removed this anomaly and has implemented a uniform policy to the effect that defence personnel is eligible for full pension after completion of 20 years of service, hence removing the earlier condition of 26 years. Therefore now pension is granted to Government Servants as per their number of years of service. The same has been introduced vide GOI, MOD letter No. 1(2)/2016-D(Pen/Pol) dated 30.09.2016 and Principal Comptroller General of Accounts circular no 568 dated 13.10.2016. However, since the table of revised pension issued in the aforementioned circular 568 have been derived from the tables issued before implementation of the OROP scheme, the table of revised pension violates Articles 14 and 21 of the Constitution and need to be revised in the spirit of One Rank One Pension and correct tables need to be issued.

37. The decision of the Government to bring our defence personnel on the pattern of the civilians with regard to their pay, pension, etc. (from Third Central Pay Commission onwards) was not a considered decision. That aside, the Central Government has granted civilian Government servants Apex Pay Grade, ensured that all police officers retire at the

highest pension scale, granted Non-functional Financial Upgradation (NFU) to Class I civil services including the Indian Police Service to ensure that all of them get automatic time bound pay / promotions and also, irrespective of job title or responsibility, retire at the pay and pension of Armed Forces Lieutenant General. At the same time, the Central Government is refusing to implement One Rank One Pension which is unjust, arbitrary, and violative of Articles 14 and 21 of the Constitution.

37A. The Para Military Forces and Armed Forces employees had approached Central Administrative Tribunal (CAT) and Armed Forces Tribunal (AFT) respectively, for Non Functional Upgrade (NFU) for these services. CAT has ruled that Para Military Forces are entitled for NFU effective from 1 Jan 2006. Similarly the AFT in a landmark decision vide order dated 23.12.2016 in OA No. 802/2015 ruled that Non Functional Upgrade should be equally applicable to Armed Forces Personnel. Furthermore, the judgment also acknowledged the Defence Services to be Grade 'A' services. The MOD has been directed to implement NFU in terms of the Order dated 23.12.2016. The MOD however, is yet to come out with their decision. This decision needs to be implemented keeping spirit of One Rank One Pension principle and wherever possible these rates in change of pension be automatically passed on to past pensioners.

38. As noted by the Koshyari Committee, after the Sixth Central Pay Commission, officers from the level of Lt. Colonel and above fall in a single pay band i.e. pay band IV, carrying pay scale of 37400 to 67000, which means that defence retirees of earlier years from different ranks would get pension with reference of the minimum of the pay band irrespective of the fact whether they held much higher rank of Major General or Lt. General when they retired, thus, the past retirees and particularly those who retired from senior level posts remain at a disadvantaged position under the existing dispensation pursuant to the Sixth Central Pay Commission. It is submitted that this is unjust, arbitrary, and violative of Articles 14 and 21 of the Constitution.
39. The letter dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II of Respondent No. 1 to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff, regarding decision taken on implementation of One Rank One Pension, arbitrarily changed the true definition of One Rank One Pension, since it described One Rank One Pension as uniform payment of pension to retired servicemen *"retiring in the same rank with the same length of service, regardless of their date of retirement, which implies bridging the gap between the rates of pension of current and past pensioners at periodic intervals"*. It is submitted that this new perverse definition of One Rank One Pension does not include

that any future enhancement in the rates of pension would be "automatically" passed on to the past pensioners. Thus, it did great injustice in the most perverse and arbitrary fashion to 24 lakh ex-servicemen, 6.5 lakh war widows and veteran widows, and their families by creating a situation of "one rank different pensions", which is not permissible in view of the judgment of this Hon'ble Court in *Union of India v. SPS Vains*(supra) wherein it was held that creation of a class within a class is illegal, unconstitutional and violative of the Fundamental Rights guaranteed by the Constitution. It is submitted that this new perverse definition was brought around arbitrarily and illegally by Respondent No. 1 and it deviated from the earlier definition of One Rank One Pension previously settled in the meeting dated 26.02.2014 (supra), which meeting was chaired by the Hon'ble Defence Minister and attended by senior bureaucrats. It is also submitted that this new perverse definition of One Rank One Pension also deviated from the earlier definition of One Rank One Pension set out in the letter of Respondent No. 1 bearing reference No. 12(01)/2014-D (Pen/Pol) dated 26.02.2014 to the Controller General of Defence Accounts (supra). It is further submitted that the new / revised definition of One Rank One Pension will lead to a situation where the pension drawn by an ex-serviceman who retired earlier will be less than the pension drawn by an ex-serviceman who retires earlier, until such time

a "periodic" review is done to correct the anomaly. Thus, it will create a class within a class (i.e. among ex-servicemen who retired with the same rank with the same length of service, some will receive higher pension and some will receive lower pension, based on the date of their retirement), which differentiation leads to "one rank different pensions" and is arbitrary and impermissible. It is further submitted that, even if the differential / lower payment is rectified by payment of arrears at a later date (consequent to a "periodic" review), it would lead to injustice since most ex-servicemen draw a basic pension of less than Rs. 10000 i.e., their pension is so low that late payment of arrears would be neither just nor reasonable / equitable.

40. The letter Respondent No. 1 regarding decision taken on One Rank One Pension dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II states that a decision has been taken to implement One Rank One Pension for ex-servicemen with effect from 01.07.2014. It is submitted that the date 01.07.2014 is arbitrary and it is also deviated from the decision to implement One Rank One Pension from financial year 2014-2015. In other words, the effective date of implementation of One Rank One Pension must be 01.04.2014 and fixation of the date as 01.07.2014 is unjust, arbitrary, and violative of Articles 14 and 21 of the Constitution.

41. In the letter of Respondent No. 1 regarding decision taken on One Rank One Pension dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II, the salient features of One Rank One Pension were set out in five points, which have the effect of destroying the spirit of One Rank One Pension. It is submitted that the first point was that the pension of past pensioners would be re-fixed on the basis of pension of retirees of calendar year 2013 and the benefit will be conferred with effect from 01.07.2014. The second point was pension will be re-fixed for all pensioners on the basis of the average of minimum and maximum pension of personnel retired in 2013 in the same rank and with the same length of service. The third point was the pension of those drawing above the average would be protected. The fourth point relates *inter alia* to payment of arrears in four equal half yearly instalments. The fifth point was pension would be re-fixed every five years. It is submitted that the pension of soldiers retiring on/after 01.04.2014 will be fixed on the basis of the last pay drawn on the date of his retirement. The true definition of One Rank One Pension requires that the pension of past pensioners who retired earlier than 2013, must be fixed equal to the ones retiring with the same rank and the same length of service on/after 01.04.2014. It is therefore submitted that the proposed re-fixation on the basis of the pension of retirees of calendar year 2013 (i.e., the first point of the letter dated 07.11.2015)

does violence to One Rank One Pension in the most arbitrary and perverse fashion. Similarly, re-fixation of pension for all pensioners on the basis of the average of minimum and maximum pension of personnel who retired in 2013 in the same rank and with the same length of service (i.e., the second point of the letter dated 07.11.2015), effectively, further lowers the pension of past pensioners as compared to the ones retiring on/after 01.04.2014. This results in past pensioners who retired with the same rank and the same length of service drawing lesser pension than the soldiers retiring on/after 01.04.2014. Further, in some cases, even the past pensioners who retired with a senior rank, will draw lesser pension than soldiers retiring with a junior rank on/after 2014. It is also pertinent that "periodic" re-fixation of pension every five years (i.e., the fifth point of the letter dated 07.11.2015), whereby an ex-serviceman receives lesser pension than another who retired with the same rank and same length of service (and, in some cases, even retired with a lower rank), introduces "one rank different pension" since the future enhancement in the rates of pension are not being "automatically" passed on to the past pensioners. For these reasons, it is submitted that the implementation of One Rank One Pension in terms of the letter dated 07.11.2015 effectively puts the concept of One Rank One Pension to the grave and it is not only arbitrary and unconstitutional but also a moral

failure of the Government, not to mention the insult it causes to the injury already afflicted on our soldiers and their families since 1973. It is therefore submitted that the conditions introduced by the letter dated 07.11.2015 (except point no's three and four) completely s the spirit of One Rank One Pension, arbitrarily changes the date of implementation of One Rank One Pension, and renders the letter liable to be quashed as being violative of Articles 14 and 21.

41A As per letter dated 7.11.2015, the OROP scheme does not include in its ambit the pension being granted to widowed wives and disabled soldiers. It is most vehemently submitted that this exclusion is against the tenets of natural justice and tant amounts to unjust denial of the pensionary benefits being granted to the rest of the service pensioners. It is submitted that denying them just pension not only undermines the sacrifice and the dedication of the soldiers, but also lowers the morale of the institution that is responsible for the safety of the nation and its citizens.

42. The financial loss caused by the perverse, arbitrary and illegal implementation of One Rank One Pension, especially with effect from 01.07.2014 (i.e. a deprivation of 3 months), causes financial loss to 24 lakh ex-servicemen and 6.5 lakh war widows and veteran widows to whom such sums of money make a lot of difference. Such decision is therefore unjust,

arbitrary, and violative of Articles 14 and 21 of the Constitution.

43. The Notification dated 14.12.2015 bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II issued by Respondent No. 1, which Notification adhered to the altered definition of One Rank One Pension as reflected in letter dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II of Respondent No. 1 (supra), is unjust, arbitrary, and violative of Articles 14 and 21 of the Constitution.

44. The Notification dated 14.12.2015 bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II issued by Respondent No. 1 also appointed a Judicial Committee headed by Justice L. Narasimha Reddy (former Chief Justice of the High Court at Patna) to examine and make recommendations on references received from the Central Government on measures for removal of anomalies that may arise during the implementation of the letter dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II of Respondent No. 1. It is submitted that the Judicial Committee's terms of reference is restricted to the altered and arbitrary definition of One Rank One Pension, which will lead to recommendations that are unsuitable and against the spirit of One Rank One Pension. It is further submitted that, in terms of the letter dated 07.11.2015 and the Notification dated 14.12.2015, many

soldiers with a senior rank will receive lesser pension than soldiers with a junior rank. It is therefore submitted that the Notification dated 14.12.2015, like the letter of Respondent No. 1 dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution, and also contrary to the principle laid down by this Hon'ble Court in *Union of India v. SPS Vains* (supra).

45. While the definition of One Rank One Pension on 26.02.2014 included that future enhancements in the rate of pension would be "automatically" passed on to past pensioners, the new perverted definition observed in correspondence of Respondent No. 1 (including in the letter bearing reference 12(1)/2014/D(Pen/Pol)-Part-II dated 07.11.2015) deviated from the "automatic" mechanism and was restricted to bridging the gap between the rates of pension of current and past pensioners at "periodic intervals". It is submitted that the changed / later definition of One Rank One Pension involved re-fixation of pension every five years. It was submitted that such alternations completely change the original accepted true definition of One Rank One Pension, which would deprive past pensioners of monetary benefits, and destroy the very soul of One Rank One Pension. It is also submitted that pension equalisation every five years is against the spirit of One Rank One Pension and, in today's world of modern computing, there

is no reason to not enhance the pension of past pensioners, "automatically" and contemporaneously, whenever there is any enhancement in the rates of pension. It was also submitted that the Judicial Committee formed *vide* Notification dated 14.12.2015 bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II issued by Respondent No. 1 is based on the incorrect definition of One Rank One Pension, which would naturally lead to recommendations being made in terms of the altered definition of One Rank One Pension, thereby leading to injustice to ex-servicemen. It is submitted that the formation of the Judicial Committee *vide* Notification dated 14.12.2015 bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II issued by Respondent No. 1 is based on the incorrect definition of One Rank One Pension and it is, therefore, unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.

45A. Justice L. Narasimha Reddy Committee, referred in para 44, has submitted its report on 25.10.2016. The report is under consideration before the MOD for the last three months and no decision has been taken yet.

46. The letter of Respondent No. 1 to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff dated 03.02.2016 bearing reference 12(1)/2014/D(Pen/Policy)-Part-II, regarding decision taken on One Rank One Pension, is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution, and contrary to the principle laid down by this Hon'ble Court in *Union of*

India v. SPS Vains (supra), since it refers to and follows the arbitrary definition and implementation scheme of One Rank One Pension as notified by the letter of Respondent No. 1 dated 07.11.2015.

47. The letter of Respondent No. 1 dated 03.02.2016, like the letter of Respondent No. 1 dated 07.11.2015 and the Notification dated 14.12.2015, implements a perverse scheme of One Rank One Pension whereby there is "periodic" enhancement in the rates of pension for past pensioners (as opposed to an "automatic" enhancement in the rates of pension being passed on to past pensioners whenever there is any enhancement in the rates of pension). It is therefore submitted that they are unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.
48. The revised definition of One Rank One Pension, which was revised *vide* the letters of Respondent No. 1 dated 07.11.2015 and 03.02.2016 and the intervening Notification dated 14.12.2015, destroys the original definition and spirit of One Rank One Pension and also leads to a perverse and unjust implementation of One Rank One Pension. It is therefore submitted that they are unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.
49. The fixation of pension on the basis of calendar year 2013 instead of financial year 2014-2015 is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.

50. The re-fixation of pension on the basis of the mean / average of minimum and maximum pension of personnel retired in 2013 (instead of accepting the highest pension in each rank in order to ensure same pay for same rank) is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.
51. The payment of revised pension with effect from 01.07.2014 instead of 01.04.2014 is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.
52. Equalisation of pension at "periodic" intervals every 5 years, as opposed to an "automatic" and contemporaneous enhancement whenever there is any upward revision in the rates of pension, is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.
- 52A First casualty of this perverse decision has been fixation of basic pay for past pensioners as per recommendations of 7CPC. The Government has fixed the basic by multiplying the 2.57 factor to the basic of pensioners as per mean of 2013, whereas the basic should have been updated to 31.12.2015 before multiplying with the enhancement factor. Therefore, ends of justice would only be served if the basic of past pensioners is first brought up to, as on 31.12.2015 and then multiplied with the 2.57 factor approved by the MOD.

53. The errors in tables prepared by the Central Government indicating One Rank One Pension computation, wherein there are numerous instances of ex-servicemen who retired with senior rank and longer length of service being shown to be eligible for lesser pension than ex-servicemen who retired with junior rank, is an error that must be declared to be unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.

53A. The Resolution of Respondent No. 1 dated 30.09.2016 bearing reference No. 17(1)/2014/D(Pension/Policy), like the letter of Respondent No. 1 dated 07.11.2015 and the Notification dated 14.12.2015 (supra), continues to implement a perverse scheme of One Rank One Pension whereby ex-servicemen will continue to suffer the "periodic" enhancement in the rates of pension for past pensioners (as opposed to an "automatic" enhancement in the rates of pension being passed on to past pensioners whenever there is any enhancement in the rates of pension). It is therefore submitted that it is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution and also contrary to the judgment of this Hon'ble Court in *Union of India v. SPS Vains*(supra).

53B. The letter of Respondent No. 1 dated 29.10.2016 bearing reference No. 17(01)/2016-D(Pen/Pol) to the three Chiefs of Staff also continues to implement a perverse scheme of One Rank One Pension already being implemented illegally by the

Respondents. It is therefore submitted that it is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution and also contrary to the judgment of this Hon'ble Court in *Union of India v. SPS Vains*(supra).

54. The anomalies in implementation of One Rank One Pension, which have been created arbitrarily by the Central Government, are not only against the true meaning of One Rank One Pension but also unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.
55. Denying Havildars who retired as Hon. NaibSubedar the pension of NaibSubedar notwithstanding the letter of Respondent No. 1 to the Chief of Army Staff dated 12.06.2009 bearing reference No. 1 (8)/2008-D (Pen/Policy), which letter makes it abundantly clear that a decision has been taken to grant the benefit of Hon. NaibSubedar for the purposes of fixation of pension, is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.
- 55A. It would be pertinent to mention, that owing to the change in the services conditions over the years, defence officers are now eligible for promotions relatively early in service. For instance as of 2017, an Army Officer is eligible to pick up the rank of Major after 6 years of service as against the earlier eligibility of 11-13 years. Similarly, now an Officer is eligible for the rank of Lt. Col. after 13 years of service as against 18

years. Therefore, there is utmost requirement for parity in pension as per the new scheme of ranks.

55B. In view of the above, it is submitted that a veteran who retired as a Captain after 6 years of service, should be granted the same pension as being drawn by a Major today. This is because Commissioned Officers now automatically become Major after 6 years of service as against the yester years when a commissioned officer would take up the rank of Major only after 11-13 years of service. Therefore, denial of equal pension is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.

56. Denying veterans who have retired as Major after 13 years of service the pension of Lt. Colonel, since Commissioned Officers now automatically become Lt. Colonel after 13 years of service, is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution. It is submitted that granting veterans who have retired as Major after 13 years of service the pension of Lt. Colonel will not cause any financial burden as less than 800 Commissioned Officers have retired as Major despite 13 years of service. Denying pension of Lt. Colonel to veterans who have retired as Major after 13 years of service is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.

57. Veterans who retired prior to 2004 as Lt. Colonel should be given pension of Colonel, since all Commissioned Officers now automatically retire as Colonel. Denying pension of

Colonel to veterans who retired prior to 2004 as Lt. Colonel is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.

58. There is no just reason to deny soldiers, who receive an "Honourary" promotion after their retirement, the benefit of pension relatable to such higher rank. It is submitted that denying such benefit leads to "one rank different pensions" which is unjust, arbitrary, violative of Articles 14 and 21 of the Constitution.
59. It is not only the legal and constitutional obligation of the Central Government, but also its moral duty, to ensure the true and meaningful implementation of One Rank One Pension for all ex-servicemen, without any perverse deviations during implementation of the same.
60. Not implementing Non-functional Financial Up gradation(NFU) to the Armed Forces violates Articles 14 and 21 of the Constitution, and is also contrary to the order of the Hon'ble AFT dated 23.12.2016 in OA No. 802/2015.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

- A. Issue a Writ / Order or Direction in the nature of mandamus declaring the letter dated 07.11.2015

bearing reference 12(1)/2014/D(Pen/Pol)-Part-II of Respondent No. 1 to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff illegal, unconstitutional, and violative of Articles 14 and 21 of the Constitution;

- A1. Issue a Writ/Order or Direction in the nature of mandamus, directing the Union of India to include Widowed Wives of soldiers under the benefit of OROP introduced vide letter dated 07.11.2015 bearing reference 12(1)/2014/D(Pen/Pol)-Part-II of Respondent No. 1 to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff.
- A2. Issue a Writ/Order or Direction in the nature of mandamus, directing the Union of India to implement the scheme of OROP also for the disability pensions being drawn by the nation's disabled soldiers.
- B. Issue a Writ / Order or Direction in the nature of mandamus declaring the Notification dated 14.12.2015 bearing reference No. 12(01)/2014-D(Pen/Pol)-Part-II issued by Respondent No. 1 illegal, unconstitutional, and violative of Articles 14 and 21 of the Constitution;
- C. Issue a Writ/Order or Direction in the nature of mandamus declaring the letter of Respondent No. 1 to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff dated 03.02.2016 bearing reference

12(1)/2014/D(Pen/Policy)-Part-II

illegal,

unconstitutional, and violative of Articles 14 and 21 of the Constitution;

- C1. Issue a Writ / Order or Direction in the nature of mandamus declaring the Resolution dated 30.09.2016 bearing reference 17(01)/2014/D(Pension/Policy) of Respondent No. 1 illegal, unconstitutional, and violative of Articles 14 and 21 of the Constitution;
- C2. Issue a Writ / Order or Direction in the nature of mandamus declaring the letter dated 29.10.2016 bearing reference 17(01)/2016-D(Pen/Pol) of Respondent No. 1 to the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff illegal, unconstitutional, and violative of Articles 14 and 21 of the Constitution;
- D. Issue a Writ / Order or Direction in the nature of mandamus to the Union of India directing that the pension of past pensioners be automatically and contemporaneously enhanced, whenever there is any future increase or enhancement in the rates of pension;
- E. Issue a Writ / Order or Direction in the nature of mandamus to the Union of India directing that fixation of

pension must be on the basis of highest pension of financial year 2014-2015 and not calendar year 2013;

- F. Issue a Writ / Order or Direction in the nature of mandamus to the Union of India directing payment of revised pension with effect from 01.04.2014 instead of 01.07.2014;
- G. Issue a Writ / Order or Direction in the nature of mandamus to the Union of India directing that Havildars who retired as Hon. NaibSubedar be given the pension of NaibSubedar;
- H. Issue a Writ / Order or Direction in the nature of mandamus to the Union of India directing that all soldiers who have been conferred an Honourary superior rank, whether before or after retirement, be given the pension relatable to such superior rank;
- I. Issue a Writ / Order or Direction in the nature of mandamus to the Union of India directing that all ex-servicemen of the defence services be given benefit of full pre-commissioning service period for pension calculation, regardless of their date of retirement;
- J. Issue a Writ / Order or Direction in the nature of mandamus to the Union of India directing that veterans

who have retired as Major after 13 years of service be granted the pension of Lt. Colonel;

- J1. Issue a Writ / Order or Direction in the nature of mandamus to the Union of India directing that veterans who have retired as Captains after 6 years of commissioned service be granted the pension of Majors.
- K. Issue a Writ / Order or Direction in the nature of mandamus to the Union of India directing that veterans who retired prior to 2004 as Lt. Colonel be given pension of Colonel; and
- L. Pass any other or future order(s) as this Hon'ble Court deems fit in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN DUTY BOUND SHALL ALWAYS PRAY.

DRAWN BY:

FILED BY:

ARUNAVA MUKHERJEE

BALAJI SRINIVASAN

Advocate

Advocate for Petitioners

Drawn on: .04.2017

Filed on: .04.2017

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) NO. OF 2016

IN THE MATTER OF:

INDIAN EX.SERVICEMEN MOVEMENT & ORS.

... PETITIONERS


VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

AFFIDAVIT

I, Group Captain Vinod Kumar Gandhi (Retd.), Service No. 12436, s/o Sh. I.S. Gandhi,

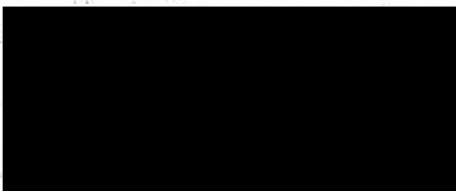


1. I am the General Secretary of Petitioner No. 1 in the above mentioned matter and am as such fully conversant with the facts of the case and therefore competent to swear this affidavit. I have been authorized by all the other Petitioners to affirm the present Affidavit on their behalf.

2. I have gone through the contents of accompanying List of Dates _____ to _____, Writ Petition Paragraphs 1 to _____ (Pages to), Grounds _____ to _____ and I.A.(s) and the same are true and correct to the best of my knowledge and no part of it is false and nothing material has been concealed there from. The contents of the Writ Petition has been explained to me in my mother tongue i.e. Hindi.

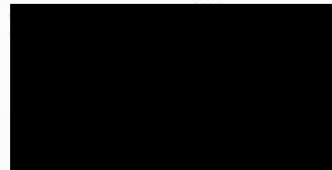
3. That the annexure are the true copies of the respective originals and are essential parts of the records.

4. I stated that the facts stated in Synopsis, List of Dates and Writ Petition are based on the instructions given to the Advocate on Record.



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5. That the facts stated above affidavit are true and correct and no material has been concealed there from.

Verified at New Delhi on this the 6th day of June, 2016.

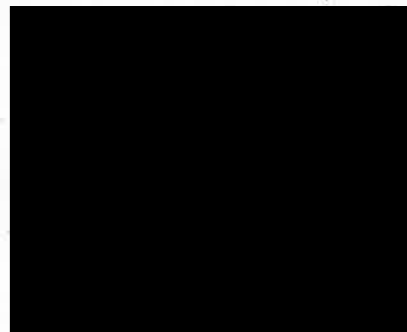


VERIFICATION

I, the deponent above named, state that this is my name and signature, and what is stated in paragraphs 1 to 5 is true and correct to the best of my knowledge and belief. No material facts have been concealed.

Place:

Date: 6/6/16



APPENDIX- A-1 : Constitution of India Articles 14 & 21**Article 14**

14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 21

21. No person shall be deprived of his life or personal liberty except according to procedure established by law.

//True Copy//

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Annexure P-1

C.S.II. -142

**RAJYA SABHA
COMMITTEE ON PETITIONS**

**HUNDRED AND FORTY-SECOND REPORT
ON
PETITION PRAYING FOR GRANT OF ONE RANK ONE PENSION
TO THE ARMED FORCES PERSONNEL**

(Presented on 19 December, 2011)



**RAJYA SABHA SECRETARIAT
NEW DELHI**

December, 2011

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- II. Comments on the petition received from D/o Ex-servicemen Welfare (M/o Defence)
- III. Comments on the petition received from D/o Expenditure (M/o Finance)
- IV. Comments on the petition received from D/o Pensions & Pensioner's Welfare (M/o Personnel, Public Grievances and Pensions)
- V. Minutes of the meetings of the Committee

5. *ANNEXURES

- I. List of organizations/individuals appeared before the Committee
- II. Background Note on the petition received from Indian Army

Composition of the Committee

(2010-11)

1. Shri Bhagat Singh Koshyari – *Chairman*
2. Shri Ram Vilas Paswan
3. Shri Nandi Yellaiah
- **4. Shri Rajeev Shukla
5. Shri Avinash Pande
6. Shri Balavant *alias* Bal Apte
- *7. Shri P. Rajeeve
8. Shri Veer Pal Singh Yadav
9. Shri Paul Manoj Pandian
10. Shri Rajaram

Secretariat

Shri Deepak Goyal, *Joint Secretary*

Shri Rakesh Naithani, *Joint Director*

Shri Ashok K. Sahoo, *Deputy Director*

Shri Goutam Kumar, *Assistant Director*

** Nominated w.e.f. 6th December, 2010 in lieu of Shri Moinul Hassan

** Ceased to be Member w.e.f. 12th July, 2011 on being inducted into Council of Ministers

INTRODUCTION

I, the Chairman of the Committee on Petitions, having been authorized by the Committee to submit the Report on its behalf, do hereby present this one Hundred Forty-second Report of the Committee on the petition signed by Shri K. Sanjay Prabhu, r/o Bengaluru and others praying for grant of one rank one pension to the armed forces personnel (Appendix-I). The petition was countersigned by Shri Rajeev Chandrasekhar, Member, Rajya Sabha,

2. The petition was admitted by Hon'ble Chairman, Rajya Sabha on 15th March, 2011 under the provisions of Chapter X of the Rules of Procedure and Conduct of Business in the Council of States. In accordance with Rule 145 of the said Rules, the petition was presented to the Council on 18th March, 2011 by the Member who had countersigned it, after which it stood referred to the Committee on Petitions for examination and report in terms of Rule 150 *ibid*.

3. The Committee issued a Press communiqué inviting suggestions from interested individuals/organizations on the subject matter of the petition. In response thereto, more than 200 hundred memoranda were received by the Secretariat. The Secretariat scrutinised those memoranda and a gist thereof has been suitably incorporated in the Report.

4. The Committee heard the petitioner and others on the petition in its sitting held on 4th May, 2011. The Committee also heard

certain organizations/ individuals, who had submitted their memoranda on the issues raised in the petition in its sitting held on 16th May, 2011, The Committee heard the Secretary, Department of Ex-Servicemen Welfare (M/o Defence) on 27th May, 2011 and Secretaries, Department of Expenditure (M/o Finance) and Department of Pensions and Pensioner's Welfare (M/o Personnel, Public Grievances and Pensions) on 15th July, 2011 on the issues connected with the petition.

4.1 Based on the inputs received, the Committee once again heard Secretaries, Department of Expenditure (M/o Finance) and Department of Ex-Servicemen Welfare (M/o Defence) on 1st August and 14th November, 2011, respectively. It considered the draft Report in its sitting held on 16th December, 2011 and adopted the same.

5. The Committee while formulating its observations/recommendations, has relied on the written comments of the concerned Ministries, oral evidence of witnesses-official as well as non-official, feedback received in response to the Press Release, observations of the Members of the Committee and interaction with others.

6. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the Report.

NEW DELHI
December 16th, 2011
Agrahayana 25, 1933 (Saka)

BHAGAT SINGH KOSHYARI
Chairman
Committee on Petitions

REPORT

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A petition signed by Shri K. Sanjay Prabhu, a resident of Bengaluru and others countersigned by Shri Rajeev Chandrasekhar, M.P. (Rajya Sabha) praying for grant of one rank one pension to the armed forces personnel was submitted to the Council of States on 29th October, 2010 (Appendix-I).

2. The petitioners have contended that various associations/movement and other organizations of Ex-servicemen of Country's Armed Forces have time and again pleaded to the Government of India demanding for one rank one pension in order to address the sense of hurt, injustice and dishonour in the armed forces and bring parity in the pensionary benefits for the retired personnel of Armed Forces. They have submitted that prior to the Third Central Pay Commission, the pension of Armed Forces personnel was regulated by Pension Regulation exclusively keeping in view the peculiarity and gravity of the service conditions to which the soldier is subjected to in peace, and the danger to which he is exposed in war, the inevitable need to retire a soldier much earlier than the normal age of superannuation enjoyed by the other central Government employees, the difficulty in getting a soldier to rehabilitate in civilian work of life after retirement, and last but not the least, the sacrifice that the family, and more so, the children of the soldier are called upon to offer to the country. It was decided by the then Government to grant pay and perks that a soldier deserves by virtue of his contributions to the motherland and to keep his

status and living standards quite high without comparison with civilian employees. At that time, the pension was based on the rank of retirement provided that he has put in the minimum required years of service. Every armed forces personnel are entitled for one rank one pension which took care of his needs and it was based on principles of reward for his sacrifices.

2.1 But unfortunately, after the Third Central Pay Commission, the pension formula as applicable in that civilian pension rules was extended to the armed forces pensioners also through a Government administrative order. This ex-parte decision has denied one rank one pension to the ex-armed forces personnel which is the cause of all troubles and resentment amongst them. Accordingly, the petitioners have prayed that the Government should accept the long pending demand of Ex-servicemen for one rank one pension on priority basis to honour those who defended our motherland and the commitments made by the Government from time to time on this issue be honoured without any stipulations or conditions.

Concept of One Rank One Pension

3. One Rank One Pension (OROP) implies that uniform pension be paid to the Armed Forces Personnel retiring in the same rank with the same length of service irrespective of their date of retirement and any future enhancement in the rates of pension to be automatically passed on to the past pensioners. This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners, and also future enhancements

in the rate of pension to be automatically passed on to the past pensioners. In armed forces, equality in service has two components, namely, rank and length of service. The importance of rank is inherent in armed forces as it has been granted by the President of India and signifies command, control and responsibility in consonance with ethos of service. These ranks are even allowed to be retained by the individual concerned after his/her retirement. Hence, two armed personnel in the same rank and equal length of service should get same pension irrespective of date of retirement and any future enhancement in rates of pension be automatically passed on to the past pensioners.

4. The Ministry of Defence (Department Ex-servicemen Welfare) which is the nodal Ministry for the petition in their initial comments has mentioned that this grievance of armed forces personnel has been got examined by various Committees/Commissions¹ in the past but it was not found acceptable by the Government due to various reasons. The Ministry has further stated that the improvement in pension of armed forces personnel is an ongoing process and substantial improvement in the pension of ex-servicemen has been brought about as a result of implementation of the Cabinet Secretary Committee's recommendations.

4.1 That said Committee of Cabinet Secretary did not agree to the demand of one rank one pension, but it made seven recommendations aimed at narrowing the gap between earlier and current pensioners. All the recommendations made by the

Committee were accepted by the Government and orders implementing the same were also issued. With the implementation of that Committee's recommendations, the following improvements have been brought about by the Government:-

- (i) Pre 10.10.1997 Post Below Officers Rank (PBOR) pensioners have been brought at par with post 10.10.1997 pensioners.
- (ii) The enhanced rate of classification allowance will be reckoned w.e.f. 01.01.2006 on notional basis for the purpose of calculation of pension.
- (iii) Pension of all pre 01.01.2006 PBOR pensioners will be reckoned with reference to notional maximum in the post 01.01.2006 revised pay structure corresponding to the maximum of pre Sixth Pay Commission pay scales as per fitment table of each rank with enhanced weightage awarded by Group of Ministers.
- (iv) Linkage of full pension with 33 years of qualifying service has been removed w.e.f. 1.1.2006 instead of 1.9.2008 in the case of Commissioned Officers.
- (v) Separate pay scale of 67000-79000 has been created to address the issue of disparity in pension of pre and post 1.1.2006 pensioners at the level of Lt. General and equivalents in other two Services, so as to enable them to get pension at 36,500/-.

- (vi) Benefit of broad banding of percentage of disability/war injury pension has been provided for pre 1.1.1996 disability/war injury pensioners.
- (vii) Cap on war injury element of pension in the case of disabled pensioners belonging to category E stands removed.

¹Third Central Pay Commission, 1973, Fourth Central Pay Commission, 1986, High Level Empowered Committee, 1991, Fifth Central Pay Commission, 1996, Inter-Ministerial Committee, 2003, Group of Minister, 2005, Sixth Central Pay Commission, 2006, Cabinet Secretary Committee and Standing Committee on Defence.

Petitioners' oral submission (4th May, 2011)

5. The petitioners have submitted that ex-servicemen have been getting lower pension than their younger counterparts in the same rank, particularly after implementation of Third Central Pay Commission Report. The petitioners made a power-point presentation *inter alia* covering various Supreme Court judgments on the issue, comparison of pay and pension scheme for armed forces in countries like the USA, UK and Singapore, justification for the prayer for one rank and one pension, etc. The petitioners also submitted that the prayer for grant of one rank one pension has been opposed by the Government mainly on financial, legal and administrative grounds which could be resolved with the intervention of the Committee. The petitioners prayed to the Council of States for

one rank one pension for ex-servicemen irrespective of their date of retirement.

Deposition of Department of Ex-Servicemen Welfare (M/o Defence) (27th May, 2011)

6. The Secretary (ESW), Ministry of Defence in her deposition stated that the concept of one rank one pension signifies that for the same length of service for the same rank, the incumbent must get the same benefit, same emoluments and same pension. Any enhancement in any of these at any point of time by the Government must be passed on to all the past employees. She also informed that Government over the years has found it difficult to accept this concept of OROP *in toto* due to three reasons which are financial, administrative and legal.

6.1 Under financial constraint, she informed that if OROP is to be implemented *in toto*, the financial burden incurred as calculated by Central Government Defence Accounts is 3,000cr per year. Under administrative constraint, it was contended by her that to implement the OROP and to pass on all the benefits to all those ex-servicemen living today is administratively, a gigantic task. There is retention schedule of records of the defence pensioners and after a period of 25 years, the records are no longer available. There is administrative difficulty in introducing of concept for which there is no cut-off date, as records of early 80s are manually maintained. Coming to the legal constraint, she informed that the Law Ministry in

its opinion and Supreme Court in its judgment have said that a cut-off date for any emolument given by the Government to its employee is valid under the Constitution and the Government is entitled to have a cut-off date for any emolument. Further, she added that if today's pension and emoluments are passed on automatically to somebody who retired 30 years ago there will be inherent discrimination against the terms and conditions of service or the qualifications of service that one is entitled to fulfill, which would also lead to discrimination under the Constitution. She added that the Ministry of Law, based on these two basic tenets and the judgments of the Supreme Court gave an opinion against full OROP.

6.2 The representatives of the Indian Army submitted that the OROP was in existence before the Third Pay Commission. With the conversion of running pay band under Sixth Central Pay Commission, a large number of ranks were grouped and one running pay band was made and the pensioners were given the benefits of the lowest of a pay band, which means the pension of a retired Lieutenant Colonel and the pension of a retired Major General was fixed at 37400 in PB-4. He further added that if the previous regime was continuing, then pensions would have been fixed at the lowest of the pay scales on which they were retiring. Thus, the disparity has aggravated after the implementation of the Sixth Central Pay Commission.

6.3 He further added that the Assured Career Progression (ACP) scheme introduced in Sixth Central Pay Commission was not passed on to the past pensioners, although, precedent regarding implementation of such schemes to the past pensioners exists in armed forces. For example the rank pay which was not in existence before 1986 has been extended to even pre-1986 pensioners. Therefore, ACP which has been introduced from 1st September 2008 should also be extended to the previous pensioners.

6.4 He further submitted that there is administrative difficulty on the part of the Ministry that pensioners cannot be given increment every year. So, perpetually they will never be at par with current retirees. As a way out, he suggested fixing a period of five years or every Pay Commission to Pay Commission, for bringing all pensioners at par. He suggested a similar exercise for the family pensioners also.

6.5 The representative of the Air Force submitted that to bridge this gap the suggestion regarding fixation of pay in five-year period or Pay Commission to Pay Commission was a good one and informed the Committee that the long pending issue may be sorted out this way.

6.6 The representative of the Indian Navy apprised the Committee about the unique life and difficulties which were experienced by a man in uniform. He stated that the family as well as the men in uniform was living in such a difficult conditions and they had to

sacrifice so much in their life that special recognition should be given to boost the morale of the Armed Forces. He also added that even after retirement, a man in uniform cannot pursue any other business and they have a very limited job opportunity after retirement.

Deposition of Department of Expenditure (M/o Finance) (15th July & 1st August, 2011)

7. The Secretary (Expenditure) submitted that the figure relating to defence personnel's pension was being maintained in the Office of Controller General of Defence Accounts, which was under the administrative control of Ministry of Defence. He submitted that the figure, as available in the Office of Controller General of Defence Accounts, had been procured by the Ministry of Finance in accordance of which 1,300 crore approximately would be an immediate additional burden on Union Government in case 'one rank one pension' is given to ex-servicemen only prior to 01-01-2006. Mentioning break-up of 1,300 crores, he said that 1,065 crores would be given to the retirees belonging to the Posts Below Officer Rank (PBOR) and 235 Crores would be given to the retired Commissioned Officers. The said total figure would be increasing taking into account minimum 10% annual increase which would go to 1,430 crores in 2012-13, 1573 crores in 2013-14, 1,730 crores in 2014-15, 1,903 crores in 2015-16 and in 2016-17, that amount would be increased to 2,379 crores taking into account 25% increase due to impact of forthcoming Seventh Central Pay

Commission recommendations. In total, in six years, the financial liability on account of Defence personnel's pension would be 10,135 crores approximately. Besides that, there would be additional burden on the national exchequer on account of payment of enhanced pension to the civilian

employees which would be 7,840 crores as on today; which would increase to 62,218 crores in the year 2016-17 taking into account annual increase of 10% and 25% increase in view of impact of forthcoming Seventh Central Pay Commission recommendations. It was also pointed out by him that the State Governments might implement the enhanced pension scheme given to the civilian employees by the Union Government, to their employees which would cost 1,61,307 crores to the States' exchequer.

Deposition of Department of Pensions and Pensioners welfare (M/o Personnel, Public Grievances and Pensions) (15th July, 2011)

8. The Secretary has submitted that the Reports of various Pay Commissions have not supported the concept of OROP but on the other hand, there are a lot of other measures which have been implemented and which have narrowed down the gap between past and the new pensioners of the Armed Forces considerably. With the grant of weightage for the purpose of calculation of pension on the basis of the recommendations of the Group of Ministers and a revision of pay of all pre-1.1.2006 PBOR pensioners with reference to notional maximum in the post-1.1.2006 revised pay structure

corresponding to the maximum of pre-Sixth Pay Commission pay scales with enhanced weightage, almost a complete parity between pre-2006 and post-2006 pensioners has been brought. He further mentioned that the other notable decisions taken on the recommendations of the Committee under the Chairmanship of the Cabinet Secretary include bringing pre-10th October 1997 PBOR pensioners at par with post-10th October, 1997 pensioners; reckoning of enhanced rate of classification allowance with effect from 1.1.2006 on a notional basis for the purpose of calculation of pension; removal of linkage of full pension with 33 years of qualifying service with effect from 1.1.2006 instead of 1.9.2008 in the case of Commissioned Officers; and creation of a separate pay scale of Rs.67,000-79,000 to address the issue of disparity in the pension of pre-1.1.2006 and post-1.1.2006 pensioners at the level of Lt. General and equivalents in other two services. These measures have already narrowed down the differences.

8.1 He raised apprehension that if OROP is accepted for the Armed Forces, then there will be similar demands from the civilian pensioners also, which will lead to a heavy financial implication for the State exchequer, and the Cabinet Secretary's Committee has brought in a financial implication of around Rs.8,000-Rs.9,000 crores *per annum* tentatively if this principle is accepted.

Suggestions/Viewpoints of Stakeholders and concerned Organisations/Individuals

9. The Committee has received more than two hundred memoranda from various organizations/individuals expressing views on the subject matter of the petition. The petition was supported by all organizations/individuals. The Committee gave opportunity to some of the organizations/individuals who requested for an audience before it. A list of organizations/individuals those appeared before the Committee is at Annexure-I. The views expressed in the memoranda as well as during the oral evidence by witnesses have been summarised and given below:-

- (i) The Armed Forces of the Union are 'rank based structure' organisations. The ex-servicemen are associated with their rank even after their retirement and death. There is strong bondage between serving and ex-servicemen community as in most of the cases the siblings of ex-servicemen join defence services as a matter of honour and pride. Their mindset, attitude, commitment and dedication to the Nation do not change even after their retirement. Till 1950, armed forces were enjoying an edge over their civilian counterparts in respect of pay and pension. The pension for armed forces was almost 90 percent of their last pay drawn, which was gradually reduced to 50 percent of their last pay whereas the pension of civilian employees was enhanced from 33 percent to 50 percent of their last pay drawn in due course;

- (ii) Pay and pension of Armed Forces personnel was governed by separate Pay Commission which was substituted with Common Pay Commission for both civilian and defence personnel w.e.f. Third Pay Commission;
- (iii) Armed forces have to retire early as a matter of policy of Government which causes loss of earnings to them because the benefits given by successive Pay Commissions which could have accrued to them if they were made to retire at the normal retirement age of sixty. They are made to retire at a point of time when they have maximum liability of their family on them, nearly eighty five percent of armed forces retire at the age of 38; ten percent retirements take place at the age of 46 and remaining 5 percent retirements happen at the age of 56 to 58;
- (iv) The demand for one rank one pension has its basis in the past precedence as well as truncated service career of the armed forces which causes loss of earning to them. Furthermore, armed forces personnel are deployed in toughest terrain and roughest weather including Siachin Glacier during their service career;
- (v) The pension of Armed Forces of United States of America was quoted as precedent where they get 15 to 20 percent higher pension compared to their civilian employees which is known as hundred per cent neutralisation of pay and pension of the armed force;

- (vi) The ex-servicemen are a class by themselves; differential pension for ex-servicemen in the same rank led to a class within the class like pre and post 2006 retirees, which goes against the principle of equality;
- (vii) Almost all political parties have favoured inclusion of one rank one pension demand of ex-servicemen in their election manifesto. Five Prime Ministers of the country were found to be sympathetic to the demand of one rank one pension and had constituted a number of committees to examine the demand but the same still remained unaddressed due to bureaucratic apathy;
- (viii) The stakeholders referred to the non-functional financial upgradation for the civil servants of class-I organised Central Services after Sixth Pay Commission given to the civilian employees which in substance means one rank one persons for the civil servants. Therefore, their demand also needs to be met with; and
- (ix) The retired officers from para-military forces, particularly the Border Security Force also spoke for one rank one pension. They submitted that like Army, they have made supreme sacrifice for the Nation and secured the border of the country in Pakistan and Bangladesh sectors with commitment and dedication.

Findings of the Committee

10. The demand of the ex-servicemen for one rank one pension has been included in Election Manifestos of leading political parties. Department-related-Standing Committee on Defence (2009-10) (Fifteenth Lok Sabha) in its Seventh Report on Action Taken by the Government of the recommendations/observations of the Committee contained in their First Report (Fifteenth Lok Sabha) on Demands for Grant (2009-10) has recommended that "the Committee still recommend that the Government should implement One Rank One Pension in a holistic manner so that large number of ex-servicemen can be benefitted. The Government should also ensure that the various benefits provided to the ex-servicemen due to implementation of the recommendation of the Committee headed by the Cabinet Secretary along, with the arrears if any, are paid expeditiously".

10.1 The Committee observed that these issues were being considered by the Government since 1973 in Third Central Pay Commission, Fourth Central Pay Commission considered it in 1986. In the year 1991, the Sharad Pawar Committee considered it. In 1996, it was considered by Fifth Central Pay Commission. In 2003, the Inter-Ministerial Committee considered it. In 2005, Group of Ministers considered it. The Sixth Central Pay Commission considered it and finally Cabinet Secretary Committee considered it. Measures taken by the Government on this demand by constituting various Committees indicate that there is merit in the demand for One Rank One Pension by Armed Forces Personnel, otherwise the

matter would not have been considered time and again by various committees of the Government and Central Pay Commissions. It could have been rejected once and for all and principle of *res judicata* would have been applied to this demand. Hence, it definitely deserves attention of the Parliamentary Committee as well as the Government.

10.2 The Committee observes that One Rank One Pension was in vogue till 1973 when the Third Central Pay Commission took *ex-parte* decision against the One Rank One Pension formula. If this formula was working satisfactorily for more than 26 years after the country's Independence what was the harm in continuing this formula? The same procedure could very well be followed even though this demand is accepted by the Government. The Ministries in their submissions has attempted to draw a rosy picture about the pension being given to the Armed Forces Personnel according to length of service. If this is beneficial to them than why are the ex-servicemen are consistently demanding for One Rank One Pension Formula? Why they are agitated? They serve the nation with utmost devotion and selflessness but their demands are consistently being ignored, not by the heads of Armed Forces, but by the bureaucrats. It's a typical example of bureaucratic apathy.

10.3 To continue this apathy, the Ministries apprised the Committee that if OROP to be implemented to the armed forces personnel, similar demands may be raised from the civilian Government employees. To this argument, the Committee finds that it is a

baseless apprehension of the Government as soldiering is a different profession and they retire by rank while civilian Government employee retired by age. The terms and conditions of armed forces are tougher and harsher than the civilian Government employee. There are restrictions of fundamental rights to the armed forces. Risk to life of a soldier is always higher as they work under severe strain and sense of insecurity

with undefined and unlimited working hours. Transfers and dislocation alongwith bleak career prospects are other disadvantages attached with the armed forces. Their family life is also non-comparable with that of civilian Government employee. The Armed Forces are also subjected to Court Martial system for the shake of military discipline. In view of aforesaid uniqueness of Armed Forces it can not be equated with a civilian Government employee.

10.4 The Committee is distressed to note that the defence personnel of our country have returned their service medals to the President of India in view of the Governments' apathetic attitude towards their demand of grant of OROP.

Observations/recommendations of the Committee

11. The Committee takes note of the fact that a sum of Rs.1300 crores is the total financial liability for the year 2011-12 in case OROP is implemented fully for all the defence personnel in the country across the board. The Committee is informed that out of

this, 1065 crores would go to retirees belonging to Post Below Officer Ranks (PBOR) while the Commissioned Officers would be getting the remaining i.e. 235 crores. The Committee feels that 1300 crores is not a very big amount for a country of our size and economy for meeting the long pending demand of the armed forces of the country. The Committee understands that this 1300 crores is the expenditure for one year which might increase at the rate of 10 percent annually. Even if it is so, the Committee does not consider this amount to be high, keeping in view the objective for which it would be spent. Needless for the Committee to point out here that our defence personnel were getting their pension and family pension on an entirely different criteria before the Third Central Pay Commission came into force. Till the recommendations of the Third Central Pay Commission were implemented for the defence personnel of the country, they were satisfied and happy with dispensation meant for their pension/family pension.

11.1 The Committee is satisfied to note the efforts made by Government over the period to meet the demand of OROP of defence personnel. It is heartening to note that Government has on the basis of the recommendations of Cabinet Committee, spent 2200 crores for the purpose of meeting the grievance of defence pensioners. The net result is that while the demand for OROP stands almost met in the case of PBOR, the officers' category remains much behind the target. Keeping in view the fact that Officers constitute a small proportion of the entire defence force and

only a small proportion of the funds needed, i.e., 235 crores out of 1300 crores stand allocated to their share for implementing the demand in the officers' category, the Committee strongly recommends that this may be implemented so as to keep up the morale of the service. The fact that there are large numbers of vacancies in the defence services at the officer's level corroborates the requirement of suitable corrections in the officer's category and make their service conditions more acceptable and attractive.

11.2 The Committee is not convinced with the version of the Ministry of Finance that the grant of OROP to the defence personnel would eventually generate similar requests from the civilian work force of the country under the Central Government and the State Governments. The Committee feels so because of the quite different terms and conditions of service of the two different categories of employments. The terms and conditions of armed forces are tougher and harsher than the civilian Government employee. There are restrictions of fundamental rights to the armed forces. Risk to life of a soldier is always higher as they work under severe strain and sense of insecurity with undefined and unlimited working hours. Transfers and dislocation alongwith bleak career prospects are other disadvantages attached with the armed forces. Their family life is also noncomparable with that of civilian Government employee. The Armed Forces are also subjected to Court Martial system for the shake of military discipline. In view of aforesaid uniqueness of Armed Forces it can not be equated with a civilian Government

employee. Further, the Committee would not like this argument or apprehension to stand in the way of the legitimate and fair demand of the defence personnel. On the issue of returning of service medals by the defence personnel of our country to the President of India in view of the Governments' apathetic attitude towards their demand of grant of OROP, the Committee is of the view that our defence personnel should not feel alienated to this extent again and they are not forced to surrender their hard earned service medals in this manner to exhibit their discontent with the government policies.

11.3 There is another dimension of the issue under consideration, i.e., the necessity and justification for bringing about the change through the Third Central Pay Commission. Nothing has been brought before the Committee which could explain or justify the circumstances in which the defence personnel were applied the same criteria as applicable to the country's civilian work force under the Central Government for the purpose of determining their pay, allowances, pension, family pension, etc. It is quite obvious that the terms and conditions of service, more particularly their span of service, i.e., the age at which they enter service and the age at which they become due to retire, vary drastically from the civilian work force. There is no doubt that the span of service of the armed forces is much-much less as compared to the civilians. The defence personnel in the PBOR category retire when they are around 35-40 years of age. Even the officers retire when they are around 55 years of age. That is the time when they have lot of family and social

responsibility to discharge for which they need a sound financial support. This is certainly not the case with the civilian work force where the age of retirement is 60 uniformly. Further, under the rules governing pension/family pension of the civilians, the longer a person serves, the more pay he gets and consequently he becomes entitled for higher pension / family pension. This being so, our defence personnel are bound to remain at a disadvantageous position since the period for which they serve is definitely much less. On top of this, the fact that they retire at a younger age aggravates their hardship.

11.4 In the above situation, the Committee feels that the decision of the Government to bring our defence personnel on the pattern of the civilians with regard to their pay, pension, etc. (from Third Central Pay Commission onwards) is not a considered decision which has caused hardship to the defence personnel and has given birth to their demand for OROP. The Committee understands that before the Third Central Pay Commission, the defence personnel were getting their pay / pension on the basis of a separate criteria unconnected with the criteria devised for the civilian work force. That criteria acknowledged and covered the concept of OROP which has been given up after the Third Central Pay Commission.

11.5 The Committee is not convinced with the hurdles projected by the Ministry of Defence (D/o Ex-Servicemen Welfare) in implementing of OROP for defence personnel. They have categorized the hurdles into administrative, legal and financial. The

financial aspect has already been dealt with by the Committee. So far as the administrative angle is concerned, the Committee is given to understand that all the existing pensioners/ family pensioners are still drawing their pension/family pension based upon the lawfully determined pension / family pension. In that case, revision of their pension / family pension, prospectively, as a one time measure should not pose any administrative hurdle. So far as the legal aspect is concerned, the Committee is not convinced by the argument put forth against the implementation of OROP because the pension / family pension is based upon the service rendered by personnel while in service and comparison of services rendered during two sets of periods does not seem to be of much relevance. If seen from a strict angle, in each set of periods, the army officer performed the duties attached to his post and it may not be proper to infer that the officers who served at a later period performed more compared to the officers of earlier period. On the contrary, facts tilt towards treating past pensioners/family pensioners at par with the more recent ones.

11.6 The Committee further takes note of the fact that the reduction of around 26 pay scales into IV pay bands on the recommendations of the Sixth Central Pay Commission has aggravated the grievances of defence personnel. For example, after the Sixth Central Pay Commission, officers from the level of Lt. Colonel and above fall in a single pay band i.e. pay band IV, carrying pay scale of 37,400 to 67,000. It means that defence retirees of earlier years from different

ranks would get pension with reference of the minimum of the pay band irrespective of the fact whether they held much higher rank of Major General or Lt. General when they retired. Thus, under the existing dispensation, pursuant to the Sixth Central Pay Commission, the past retirees, particularly those, who retired from senior level posts, remain at a disadvantaged position. Keeping in view all the above factors, the Committee strongly recommends that Government should implement OROP in the defence forces across the board at the earliest and further that for future, the pay, allowances, pension, family pension, etc. in respect of the defence personnel should be determined by a separate commission so that their peculiar terms and conditions of service, the nature of duties they are required to perform, etc., which are quite different from the civilian work force, are duly taken into account while taking decision on the same.

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Interim Budget 2014-2015

Speech of P. Chidambaram

Minister of Finance

February 17, 2014

Madam Speaker,

INTRODUCTION

I rise to present the Interim Budget for 2014-15.

[XXX]

Defence

55. The allocation for defence has been enhanced by 10 percent from Rs.203,672 crore in BE 2013-14 to Rs.224,000 crore in 2014-15.

One Rank One Pension

56. Hon'ble Members are aware of the long standing demand of the Defence Services for One Rank One Pension (OROP). It is an emotive issue, it has legal implications, and it has to be handled with great sensitivity. During the tenure of the UPA Governments, changes in the pension rules applicable to the defence services were notified on three occasions in 2006, 2010 and 2013. As a result, the gap between pre-2006 retirees and post-2006 retirees has been closed in four ranks (subject to some anomalies that are being addressed):

Havildar, Naib Subedar, Subedar and Subedar Major. There is still a small gap in the ranks of Sepoy and Naik and a gap in the ranks of Major and above. We need a young fighting force, we need young jawans, and we need young officers. We also need to take care of those who served in the defence forces only for a limited number of years. Government has therefore decided to walk the last mile and close the gap for all retirees in all ranks. I am happy to announce that Government has accepted the principle of One Rank One Pension for the defence forces. This decision will be implemented prospectively from the financial year 2014-15. The requirement for 2014-15 is estimated at Rs.500 crore and, as an earnest of the UPA Government's commitment, I propose to transfer a sum of Rs.500 crore to the Defence Pension Account in the current financial year itself.

Central Armed Police Forces

57. A modernisation plan at a cost of Rs.11,009 crore has been approved to strengthen the capacity of Central Armed Police Forces and to provide them state-of-the-art equipment and technology. Funds have been provided in the current financial year and for the next year.

[XXX]

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Minutes of the Meeting Chaired by Hon'ble Raksha Mantri on
26.02.2014 at 3.00 P.M. in Room No.103, South Block, to discuss
'One Rank One Pension'

A meeting has been convened by Hon'ble Raksha Mantri on 26th February 2014 to discuss the modalities for implementation of the Government's decision for giving 'One Rank One Pension' (OROP).

2. The Hon'ble Raksha Mantri, Defence Secretary, Secretary (ESW), the three Vice Chiefs and other senior officers from the Services Hqrs, FA(DS), CGDA and the concerned Joint Secretaries of the Ministry attended the meeting.

3. It was noted that "One Rank One Pension (OROP) implies that uniform pension be paid to the Armed Forces personnel retiring in the same rank with the same length of service irrespective of the date of retirement and any future enhancement in the rates of pension to be automatically passed on to the past pensioners. This implied bringing the gap between the rate of pension of the current pensioners and the past pensioners and also future enhancements

in the rate of pension to be automatically passed on the past pensioner."

4. During the course of the meeting. The Hon'ble RM reaffirmed the Government's commitment to implement the OROP and the sufficient fund would be available to ensure its timely implementation. He specifically indicated that the FM had also clarified that the figure of Rs.500 crores made available was only indicative and even if more funds are required, the same would be made available.

5. He directed that CGDA may initiate necessary steps in consultation with the three Services, MOD Finance and Department of ESW to give effect to this decision, he also emphasised that family pensioners and disability pension would be included. Ex-Servicemen may also be appropriately consulted as required by the Services.

6. Secretary (ESW) may issue necessary orders in this regard.

//True Copy//

No. 12(01)/ 2014-D (Pen/Pol)
Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare

Dated the 26th February, 2014

To :
Controller General Defence Accounts,
O/o CGDA,
Uian Batar Road, Palam,
New Delhi

Subject: Implementation of interim Budget, 2014-15
Announcements on 'One Rank One Pension' principle-
reg.

Finance Minister in his Interim Budget Speech on 17th February, 2014 announced that the Government accepted the principle of One Rank One Pension for the defence forces. In pursuance of this Budget announcement and the decision taken in the meeting chaired by Hon'ble Raksha Mantri on 26.02.2014, it has been decided to implement the principal of One Rank One Pension for all ranks of defence force prospectively the financial year 2014-15.

2. Accordingly, CGDA may work out the modalities in consultation with Service Hqrs. (who in turn may appropriately consult ex-servicemen), Department of ESW and MoD(Fin) and take necessary to implement the same.

Sd/-

(Marathi Narayanan
Under Secretary (Pen/Pol)

Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare
D(Pen/Pol)

Sub: Minutes of the Meetings held on 26.02.14 at 3.00 p.m in
R.No.103, South Block, New Delhi-reg.

The undersigned is directed to enclosed herewith a copy of
the minutes of the above meeting Chaired by Hon'ble Raksha Mantri
on One Rank One Pension.

2. Copy of the orders issued in this regard to CGDA is also
enclosed.

Encl: a/a

Sd/-
(Chenan Ram)
Dy. Secretary (Pen)

VCOAS, VCNS, VCAS, FA(DS), CGDA

MoD 1.D.No. 12(01)/ 2014-D. (Pen/Pol)

Dtd. 26.02.14

- Copy to:
1. PS to RM
 2. PS to RRM
 3. SO to Defence Secretary
 4. PS to Secretary (ESW)
 5. PS to JS (ESW)

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Budget 2014-2015
Speech of Arun Jaitley
Minister of Finance
July 10, 2014

Madam Speaker,

I rise to present the Budget for the year 2014-15.
[XXX]

VII. Defence & Internal Security

139. There can be no compromise with the defence of our country.

I therefore propose to allocate an amount of Rs.2,29,000 crore for the current financial year for Defence.

One Rank One Pension

140. We reaffirm our commitment to our brave soldiers. A policy of "One Rank One Pension" has been adopted by the Government to address the pension disparities. We propose to set aside a further sum of Rs. 1,000 crore to meet this year's requirement.

Modernization

141. Modernization of the armed forces is critical to enable them to play their role effectively in the Defence of India's strategic interests. I, therefore, propose to increase the capital outlay for Defence by Rs. 5,000 crore over the amount provided for in the interim Budget. This includes a sum of Rs.1,000 crore for

accelerating the development of the Railway system in the border areas. Urgent steps would also be taken to streamline the procurement process to make it speedy and more efficient.

War memorial

142. The country is deeply indebted to the officers and the jawans of the armed forces for having made huge sacrifices to defend its honour. In doing so a very large number of them gave up their lives. It is a privilege for the nation to erect a befitting memorial in their memory. I am happy to announce that a War Memorial will be constructed in the Princes Park. It will be supplemented by a War Museum. I am allocating a sum of Rs. 100 crore for this purpose.

The defence production

143. In the year 2011 a separate fund was announced to provide necessary resources to public and private sector companies, including SMEs, as well as academic and scientific institutions to support research and development of Defence systems that enhance cutting-edge technology capability in the country. However, beyond the announcement, no action was taken. Therefore, I propose to set aside an initial sum of Rs. 100 crore to set up a Technology Development Fund to support this objective.

[XXX]

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02-December, 2014 16:21 IST

Implementation of One Rank One Pension

The principle of One Rank One Pension for the Armed Forces has been accepted by the Government. The modalities for implementation were discussed with various stakeholders and are presently under consideration of the Government. It will be implemented once the modalities are approved by the Government.

One Rank One Pension (OROP) implies that uniform pension be paid to the Armed Forces personnel retiring in the same rank with the same length of service irrespective of their date of retirement and any future enhancement in the rates of pension to be automatically passed on to the past pensioners. This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners, and also future enhancement in the rate of pension to be automatically passed on to the past pensioners.

This information was given by Minister of State for Defence Rao Inderjit Singh in a written reply to Shri Rajeev Chandrasekhar in Rajya Sabha today.

DM/HH/RAJ

(Release ID :112372)

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No. 12(01)/ 2014-D (Pen/Pol)

Government of India

Ministry of Defence

Department of Ex-Servicemen Welfare

New Delhi: Dated 7th Nov, 2015

To

The Chief of the Army Staff

The Chief of the Naval Staff

The Chief of Air Staff

Subject: One Rank One Pension (OROP) of the Defence Forces
Personnel

In view of the need of the Defence Forces to maintain physical fitness, efficiency and effectiveness, as per the extant Rules, Defence Service personnel retire at an early age compared to other wings in the Government. Sepoy in Army and equivalent rank in Navy & Air Force retire after 17/19 years of engagement/service and officer retire before attaining the age of 60 years i.e. the normal age of retirement in the Governments. Considering these exceptional service conditions and in the interest of ever vigilant Defence Forces, the pensioner benefits of Ex-Servicemen have accordingly, over time, been fixed.

2. It has not been decided to implement "One Rank One Pension" (OROP) for the Ex-Servicemen with effect from 1.07.2014, OROP implies that uniform pension be paid to the Defence Forces Personnel retiring in the same rank with the same length of service,

regardless of their date of retirement, which, implies bridging the gap between the rates of pension of current and past pensioner at periodic intervals.

3. Salient features of the OROP are as follows:

- i. To begin with, pension of the past pensioner would be re-fixed on the basis of pension of retirees of calendar year 2013 and the benefit will be effective with effect from 1.7.2014.
- ii. Pension will be re-fixed for all pensioners on the basis of the average of minimum and maximum pension of personnel retired in 2013 in the same rank and with the same length of service.
- iii. Pension for these drawing above the average shall be protected.
- iv. Arrears will be paid in four equal half yearly installments. However, all the family pensioners including those in receipts of Special/Liberalized family pension and Gallantry award winner shall be paid arrears in one installment.
- v. In future, the pension would be re-fixed every 5 years.

4. Personnel who opt to get discharges henceforth on their own request under Rule 13(3) 1(i) (b), 13(3)(1)(iv) or Rule 16B of the Army Rule 1954 or equivalent Navy or Air Force Rules will not be entitled to the benefits of OROP. It will be effective prospectively.

5. The Govt. has decided to appoint a Judicial Committee to look into anomalies, if any, arising out of implementation of OROP. The Judicial Committee will submit its report in six months.

6. Detailed instructions relating to implementation of OROP along with tables indicating revised pension for each rank and each category, shall be issued separately for updation of pension and payment of arrears directly by Pension Disbursing Agencies.

7. This issued with concurrence of Finance Division of this Ministry vide their ID No. MoD (Fin/Pension) ID No.PC to 10(11)/2012/Fin/Pen dated 07 November 2015.

8. Hindi version will follow.

Sd/-

07.11.15

(K.Damayanthi)

Joint Secretary to the Govt. of India)

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No. 12(01)/2014-D (Pen/Pol)-Part-II
Ministry of Defence
(Department of Ex-Servicemen Welfare)

NOTIFICATION

New Delhi, 14th December, 2015

Whereas the Central Government has decided to implement One Rank One Pension (OROP) for the Ex-Servicemen for payment of uniform pension to the armed forces personnel retiring in the same rank with the same length of service, regardless of their date of retirement, which implies that bridging the gap between the rate of pension of current and past pensioners at periodic intervals.

Whereas it is necessary to implement the same in an equitable manner keeping in view the existing pension structure, the conditions of service, the reasons for varying pensions in case of service personnel of the same rank with the same length of qualifying service retiring at difference points of time as well as the principle of OROP decided by the Government vide Govt. of India letter No. 12(1)/2014D (Pen/Pol)/Part-II

Now, therefore, the Central Government hereby appoints a Judicial Committee headed by Justice L.Narasimha Reddy, retired Chief Justice of Patna High Court.

2. The Terms of Reference for the Committee shall be:

To examine and make recommendations on references received from the Central Government on the following matters:

- (i) Measures for the removal of anomalies that may arise in implementation of the OROP Letter

No. 12(1)/2014/D (Pen/Pol)/Part-II dated 7.11.2015.

- (ii) Measures for the removal of anomalies that may arise out of inter-service issues of the three forces due to implementation of OROP order *ibid*.
- (iii) Implications on service matters
- (iv) Any other matter referred by the Central Government on implementation of the OROP or related issues.

In making its recommendations, the Committee shall take not account the financial impact of its recommendations.

3. The Committee shall make its recommendations within six months of the date of its constitution. It may, if necessary, make interim reports on any of the matters mentioned in Paragraph 2 above.

4. The Committee will devise its own procedure and may call for such information and take such evidence, as may be considered necessary. Ministries and Departments of Governments of India shall furnish such information and documents and other assistance, as may be required by the Committee.

5. The Committee will have its Headquarters in Delhi. All administrative support will be provided by Department of Ex-Servicemen Welfare, Ministry of Defence.

Sd/-

(K.Damayanthi)

Joint Secretary to the Govt. of India

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INDIAN EX SERVICEMEN MOVEMENT®
AN ALL INDIA FEDERATION OF MILITARY VETERANS' ORGANISATIONS
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Registration Number: CPV/GR/179

25 January 2016

The Raksha Mantri

South Block

Ministry of Defence, New Delhi

Change of Definition of OROP
in Various Correspondence of DESW Noticed

Dear Sh. Manohar Parrikar Ji

Pl refer to:

1. MOD letter no 12(01/2014-D (Pen/Pol) dated 26 Feb 14
2. MOM of the meeting chaired by RM on 26 Feb 14 to discuss OROP
3. Reply of MOS Defense Sh Rao Inderjit Singh Dated 2 Dec 14 in a written reply to Sh Rajeev Chandrashekhar in Rajya Sabha
4. GOI press release dated 5 Sep 15
5. GOI letter no 12(1)/2014 dated 7 Nov 15 and
6. GOI letter no 12(01)/2014-D(pen/pol)- Part-II dated 14 Dec 15

GOI has accepted following definition of OROP in the letters dated 26 Feb 14 and MOS statement in Rajya Sabha dated 2 Dec 14.

One Rank One Pension (OROP) implies that uniform pension be paid to the Armed Forces Personnel retiring in the same rank with the same length of service irrespective of their date of retirement and any future enhancement in the rates of pension to be automatically passed on to the past pensioners. This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners, and also future enhancements in the rate of pension to be automatically passed on to the past pensioners.

However in the Press Release dated 5 Sep 14, a phrase has been added at the end of the OROP definition "at periodic intervals".

Definition of OROP given in 5 Sep Press Release is given below:

One Rank One Pension (OROP) implies that uniform pension be paid to the Armed Forces Personnel retiring in the same rank with the same length of service, irrespective of their date of retirement. Future enhancement in the rates of pension to be automatically passed on to the past pensioners. This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners at periodic intervals.

This phrase has probably been added to justify pension equalisation every five years as is being propagated by the MOD

Again, another attempt has been made to change/ distort the definition of OROP in GOI notification dated 7 Nov 15. OROP definition given in 7 Nov letter is reproduced below.

One Rank One Pension. (OROP) implies that uniform pension be paid to the Defence Forces Personnel retiring in the same rank with the same length of service, regardless of their date of retirement, which implies bridging the gap between the rate of pension of the current pensioners and the past pensioners at periodic intervals.

I am sure you would notice subtle progressive change in the language of definition of OROP, wherein the line "This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners, and also future enhancements in the rate of pension to be automatically passed on to the past pensioner" has been changed with the line "This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners at periodic intervals".

It further states as one of the salient features that it has been decided that the gap between rate of pension of current pensioners and past pensioners would be refixed every five years.

This completely changes the definition of OROP and if implemented in its changed form, it will deprive past pensioners of monetary benefits and will completely destroy the definition of OROP and in turn, destroy the very soul of OROP.

UFESM (JM) believes that this change in the definition in OROP has been inserted only to justify pension equalisation every five years. Pension equalisation every five years is against the definition of OROP and is a matter of serious concern for all Ex-servicemen. The correct and acceptable situation is that pension equalisation must be done as soon as pension of two soldiers with same rank and same length of service is noticed to be different and it must be equalised immediately. Ex-servicemen are ready to accept pension equalisation every year only to make administration of this concept easily implementable. Incidentally, any computation can be easily achieved on press of a button in today's computer era – and this needs no emphasis.

However the matter did not end at one instance of change of definition of OROP, it has been once again repeated in GOI letter dated 14 Dec 15 "OROP implies that uniform pension be paid to the Defence Forces Personnel retiring in the same rank with the same length of service, regardless of their date of retirement, which implies that bridging the gap between the rate of pension of current and past pensioners at periodic intervals".

The GOI letter dated 14 Dec 15 is the notification for the formation of one-man judicial committee. It is a matter of great importance that if incorrect definition is given to the Chairman of anomalies committee, he is bound to work within the constraints given by MOD and will thus give his recommendations as per incorrect definition given to him. This will be gross injustice to ex-servicemen. Ex-

servicemen might be justified to think that these changes are a planned move for the vexed problem of OROP in view of the past experiences in which meanings of Honorable Supreme Court orders were changed by making subtle changes in the decision of HSC.

We sincerely hope that these changes are probably only clerical errors and not a planned direction change. We therefore sincerely request you to correct these mistakes in definition of OROP and give following definition approved by Parliament to all committees.

One Rank One Pension (OROP) implies that uniform pension be paid to the Armed Forces Personnel retiring in the same rank with the same length of service irrespective of their date of retirement and any future enhancement in the rates of pension to be automatically passed on to the past pensioners.

This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners, and also future enhancements in the rate of pension to be automatically passed on to the past pensioners.

We will be thankful to get a suitable reply from you at the earliest.

Maj Gen Satbir Singh, SM

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No. 12(01)/2014-D (Pen/Pol)-Part-II
Ministry of Defence
(Department of Ex-Servicemen Welfare)
NOTIFICATION

New Delhi, Dated: 03 February, 2016

To

The Chief of the Army Staff
The Chief of the Naval Staff
The Chief of Air Staff

Subject: One Rank One Pension to the Defence Forces
personnel.

Sir,

The understand is directed to refer this Ministry's letter No 12(1)/2014/D (Pen/Policy)-Part-II dated 7th November, 2015 notifying One Rank One Pension (OROP) scheme for Defence Forces personnel. Salient features of the scheme have been mentioned at Para 3 & 4 of above said letter with the provision that the benefit of the scheme shall be implemented from 1.7.2014 to all pre-1.7.2014 pensioners. Para 6 of the letter provides that detailed instructions relating to implementation of OROP along with tables indicating revised pension for each rank and each category, shall be issued separately for updation of pension and payment of arrears by Pension Disbursing Agencies concerned.

2. The undersigned is directed to say that in order to quicken to process of revision of pension/family pension, total 101 pension tables indicating rates of pensions/family pension under OROP scheme notified vide this Ministry's order dated 7th Nov, 2015, are appended to this order. The appended table indicated revised rates of Retiring/ Service/ Special/ Disability/ Invalid/ Liberalized disability/ War Injury Pension including disability/war injury element and ordinary/ special/liberalized family pension of Commissioned Officers, Honorary Commissioned Officers, JCOs/ORs and Non-Combatants (Enrolled) of Army, Navy, Air Force, Defence Security Corps & Territorial Army retired/discharge/invalid out from service/died in service or after retirement. The existing pension of all pre-1.7.2014 pensioner/family pensioners shall be enhanced with reference to applicable table for the rank (and group in case of JCOs/Ors) in which pension with reference to the 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. The rate of pension of pensioners/ family pensioners drawing pension more than the rate of revised pension/ family pension indicated in annexed tables, shall remain unchanged.

3. The undersigned is also directed to convey that full pension of PSU absorbees who had opted for 100% commutation of pension, shall also be revised under this order with reference to revised pension of the rank determined for regularly category of pensioners.

However, there shall be no change in restored amount of pension already notified by respective PSAs in their case.

APPLICABILITY

4. The Provisions of this letter shall be applicable to all pensioners/ family pensioners who had been retired/ discharged/ invalid out from service/ died in service or after retirement in the rank of Commissioned Officers, honorary commissioned officers, JCOs/Ors and Non-Combatants (Enrolled) of Army, Navy, Air Force, Defence Security Corps, Territorial Army & Ex-State Forces and are in receipt of pension/ family pension as on 1.7.2014.

4.1 The provisions of this order, however, do not apply to UK/HKSRA/KCIO pensioners, Pakistan & Burma Army pensioners, Reservist, pensioners in receipt of Ex-gratia payments.

METHODOLOGY FOR IMPLEMENTATION

5. All Pension Disbursing Agencies (PDAs) handling disbursement of pension of Defence pensioners are hereby authorized to carry out revision of Retiring/ Service/ Special / Disability / Invalid/ Liberalized/ War Injury Pension, including disability/ war injury element and ordinary/ special/ liberalized family pension of all pre- 1.7.2014 pensioners drawing pension as on 1.7.2014 in terms of these order with applicable rates of dearness relief without calling for any applications from the pensioners and without any further authorization from the Pension Sanctioning Authorities concerned.

6. Where the revised pension as on 1.7.2004 worked out in terms of these orders, happens to be less the existing pension/ family pension as on 1.7.2014, the pension shall not be revised to the disadvantage of the pensioner.
7. Arrears on account of revision of pension from 1.7.2014 till date of its implementation shall be paid by the Pension Disbursing Agencies in four equal half yearly installments, However, all the family pensioners including those in receipt of Special/ Liberalized family pension and all Gallantry award winners shall be paid arrears in one installment.
8. The initial Pension Payment Order (PPO) or its Corrigendum PPO (Corr PPO) indicates rank, group and qualifying service for which the individual has been pensioned. This information is available with Pension Disbursing Agencies as they have revised pension of all such pensioners in the recent past in terms of Government orders issued for implementation of recommendations of Sixth CPC, CSC-2009 & CSC-2012. In case, however, any information regarding qualifying service, rank, group etc., is not available with Pension Disbursing Agencies, such cases may be referred to pension Sanctioning Authority concerned on the proforma enclosed as Annexure-A. The pension Sanctioning Authorities concerned will provide the requisite information from the available records within 15 days of the receipt of request from the Pension Disbursing Agencies.

9. In case of any doubt relating to revision of pension in terms of this order, pension disbursing agencies may immediately take up the matter with nodal officers of respective PSAs details of which shall be notified by Pr.CDA (P) Allahabad in their implementation instructions.

10. The OROP shall be basic pension from 1.7.2014 and therefore, additional pension as applicable to the old age pensioners/ family pensioners on attaining the relevant age (80 years and above) shall also be enhanced by the PDAs from 1.7.2014 or the date from which the pensioner attains the age 80 years or more, whichever is later.

PAYMENT OF LIFE TIME ARREARS (LTA)

11. If a pensioner to whom the benefit accrues under the provisions of this order has died/ dies before receiving the payment of arrears, the Life Time Arrears of pension (LTA) shall be paid in the following manner:-

a) If the claimant is already in receipt of Family Pension or happens to be the pensioner in whose favour Family Pension already stands notified and the awardee has not become ineligible for any reason, the LTA under the provisions of this order should be paid to such a claimant by the PDA on their own.

b) If the claimant has already received LTA in the past in respect of the deceased to whom the benefit would have accrued, the

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LTA under the provisions of this letter should also be paid to such a claimant by the PDA on their own.

- c) If the claimant is a person other than the one mentioned at 11(a) & 11(b) above, payment of LTA shall be made to the legal heir/heirs as per extant Government orders.

12. The following elements shall continue to be paid as separate elements in addition to the pension revised under these orders-

- i) Monetary allowance attached to gallery award viz. Param Vir Chakra, Ashok Chakra etc.
- ii) Constant Attendance Allowance, where admissible.
- iii) Dearness relief as sanctioned by the Government from time to time.

MISCELLANEOUS INSTRUCTIONS.

13. No arrears on account of revision of pension/family pension shall be admissible for the period prior to 1.7.2014.

14. No commutation of pension shall be admissible on revised/ additional amount of pension accruing as a result of revision of pension under these orders. However, the existing amount of pension, if any, that has commuted will continue to be deducted from the revised pension.

15. As a result of these orders, there will be no change in the amount of gratuity already determined and paid with reference to the rules at the time of discharge/invalidment/death.

16. Any overpayment of pension coming to the notice or under process of recovery shall be adjusted in full by the Pension

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Disbursing Agencies against arrears becoming due on revision of pension on the basis of these orders.

METHODOLOGY FOR REPORTING

17. An intimation regarding disbursement of revised pension shall be furnished by the Pension disbursing Agencies to the office of the Pr.CDA (P) Allahabad in the format prescribed as Annexure-B to this letter in the following month in which revision takes place. PDA shall also ensure that an intimation regarding revision of pension is invariably conveyed to the pensioners concerned for their information irrespective of the fact the same is benefit to them or not. The Public Sector Banks who are disbursing defence pension through Central Pension Processing Centres (CPPC), the progress report shall be furnished by the CPPC of the bank directly to the office of the PCDA (Pensions) Allahabad through electronic scrolls.

18. All other terms and conditions which are not affected by this order shall remain unchanged.

19. This issues with concurrence of Finance Division of this Ministry vide their ID No PC.1 to 10(11)/ 2012 FIN/PEN dated 2.2.2016.

Hindi version will follow.

Sd/-

(Manoj Sinha)

Under Secretary to the Govt. of India

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Registration Number: CR/6024/179

25 March 2016

Justice L.Narasimha Reddy

Retired Chief Justice of Patna High Court

C/O

The Raksha Mantri
Ministry of Defence

South Block,

New Delhi

Urgent Need to Rectify Anomalies in OROP in Govt notification
dated 7 Nov 15 and Tables Dated 03.02.2016

Dear Sir,

Please refer to Govt executive letter dated 26 Feb 14, press release dated 5 Sep 15, Govt notification dated 7 Nov 15 and 14 Dec 15.

Please also refer to the statement made by MOS Defense Sh Rao Inderjit Singh in Parliament on 2 Dec in reply to question asked by

Sh Rajeev Chandrashekhar regarding implementation of OROP

Also refer to Implementation Tables issued vide Govt of India letter .

(All attached)

One Rank One Pension was approved by UPA Govt in budget dated 17 Feb 14 and then by NDA Govt in their budget dated 10 Jun 14.

UPA Government issued an executive order dated 26 Feb 14 for the implementation of OROP dues to veterans at the earliest. This was

never implemented by the MOD nor a demand note was ever raised. The approved definition of OROP by two Governments is given below.

One Rank One Pension (OROP) implies that uniform pension be paid to the Armed Forces Personnel retiring in the same rank with the same length of service irrespective of their date of retirement and any future enhancement in the rates of pension to be automatically passed on to the past pensioners. This implies bridging the gap between the rate of pension of the current pensioners and the past pensioners, and also future enhancements in the rate of pension to be automatically passed on to the past pensioners.

OROP implies that a senior rank soldier should never draw pension less than his junior rank soldier. This cardinal principle is the soul of OROP and must never be violated.

Government issued a notification on 7 Nov 15 for implementing OROP. Government reiterated above-mentioned definition of OROP in the letter but introduced some conditions in the notification that completely destroy the definition approved by two parliaments. These conditions have created four anomalies which completely violates the definition and thereby, the soul of OROP. These anomalies are discussed in detail in succeeding paragraphs.

- 1) **Fixation of Pension on calendar year of 2013 instead of FY of 2014:** Fixation of pension as per calendar year 2013

would result in past retirees getting less pension of one increment than the soldier retiring today. This will result in past retirees drawing lesser pensions than present retirees. This will completely destroy definition of OROP approved by two Parliaments and will also result in loss of one increment across the board for past pensioners in perpetuity.

2) Fixation of pension as mean of Min and Max pension:

Fixing pension as mean of Min and Max pension of 2013 would result in more anomalies wherein same ranks with same length of service will draw two or more different pensions thus violating the very principle of OROP. This issue was discussed with RM in various meetings and after due deliberations it was decided that accepting highest pension of each rank in the year would meet the requirement as base of pension.

3) Payment wef 1st Jul 14 instead of 1st Apr 14: OROP has been approved in budget of 2014-15 by two parliaments. As per norms of Government, all proposals approved in budget are applicable from 1st April of that FY. In the case of OROP, the Govt had issued specific orders to its applicability wef 1st April 14. Hence implementation date for OROP from 1st July will be against the Parliament approval. Changing the date would result in loss of 3 months emoluments for OROP across the board. However, if OROP implementation date is to be kept as 1st July, then the base pension should also be accepted as per the PPOs of July 2014.

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4) **Pension Equalisation every five year:** Pension equalisation every five year will result in a senior rank soldier drawing lesser pension than a junior rank soldier for five years thus OROP definition will be violated for five years. This will also result in permanent violation of definition as fresh cases will come up every year.

5) **Errors in OROP Tables issued dated 03.02.2016:** There are numerous errors in the constitution of Tables. How this Table have been made is not known. The fact is that no senior rank defence personnel should ever draw less pension their junior persons. There are numerous instances in the Tables where in the senior rank and senior in service have been shown to draw less pension then his junior. The tables need to be worked out afresh after all anomalies have been removed. The most appropriate method to construct Tables would be to base these tables on live data. The PPOs of defence personnel who retired in 2013 would removal that a Sepoy with 15 years of service should get pension of approx Rs 7200 per month where as in the Tables, pension has been mentioned as Rs 6665/-. This does not satisfy the approved OROP definition. There are minimum such examples. Nb Subedar of 'Y' group has been shown to get less then X.Gp Havildar this making a senior rank defence, personal gets less than junior rank. Nb Sub TA is shown getting more pension then Regular Nb Sub.

The three Service HQs pay cells must be involved in making this Table afresh.

These anomalies will result in lesser pensions to widows, soldiers, NCOs and JCOs than what will be due to them on approval of OROP. This will result in veterans not getting OROP as per approved definition and will create large discontentment across all ranks.

There is a need to have a relook at the pensions of Hon Nb Subedars, Majors and Lt Cols.

a) Some Havildars are granted rank of Hon Naib Subedar in view of their exemplary service. These soldiers are not granted pension of Naib Subedar thus making the Hon rank just ceremonial. It is requested that Hon Naib Subedars should get pension of a Naib Subedar rather than that of a Havildar. Similarly, this must be accepted as a principle and it should be applicable to all Hon ranks in case of NCOs and JCOs.

b) There are only a few Majors as veterans. Moreover no officer is retiring in Major rank now. In the past, officers were promoted to Major rank after completing 13 yrs of service whereas present officers are getting promotion of Lt Col in 13 yrs. It will be justified to grant all pensioners of the rank of Major, minimum pension of Lt Col as they cannot be compared to present retirees as officers are not retiring as Majors any

more. Number of such affected officers is not more than 800 and will not cause heavy burden to Govt.

c) . Similarly, all pre-2004 retiree Lt Cols should get the minimum pension of full Col. Presently all officers retire in the rank of Colonel hence all Lt Col equivalents should be granted min pension of Colonels.

The above anomalies/discrepancies are being brought before you for resolution please.

We will be available for the Presentation/discussion any time and date convenient to you.

With regards,

Yours Sincerely,

Maj Gen Satbir Singh, SM (Retd)

Chairman Indian Ex-Servicemen Movement (IESM)

Mobile: 9312404269, 01244110570

Email:satbirsm@gmail.com

//True Copy//

No. 1 (8)/2008-D (Pen/Policy)

Government of India

Ministry of Defence

(Department of Ex-Servicemen Welfare)

New Delhi, the 12th June, 2009

To

The Chief of the Army Staff

Subject: Notional Pay Fixation of Honorary Ranks for the purpose of

Pension – Recommendations of the Sixth Central Pay

Commission contained in Para 5.1.62.

Sir,

I am directed to say that in pursuance of Government's decision on the recommendations of the Sixth Central Pay Commission contained in Para 5.1.62 of Chapter V of the Report, the President is pleased to decide that Honorary rank of Naib Subedar granted to Havildars will be notionally considered as a promotion to the higher grade of Naib Subedar and benefit of fitment in the pay band and the higher grade pay will be allowed notionally for the purpose of fixation of pension only. Accordingly, additional element of pension of Rs.100/- pm payable to Havildars granted Honorary rank of Naib Subedar as per Regn. 137 of Pension Regulations for the Army

Part-I (1961), amended vide this Ministry's letter No. 1(1)/88/D (Pen/Sers) dated 6.11.1991 will cease to be payable. The notional fixation of pay in the rank of Naib Subedar will not be taken into account for payment of retirement gratuity, encashment of leave, composite transfer grant etc.

2. This letter takes effect from 1st January, 2006.

3. This issues with the concurrence of Finance Division of this Ministry vide their UO No.2351/Finance/Pension dated 3.6.2009.

Sd/-

Harbans Singh

Director (Pension/Policy)

//True Copy//

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT
NEW DELHI

6.

MA 243/2013

In OA 400/2012

Ex Hav (Hony NB Sub) Ram Kanwar

... Petitioner

Versus

Union of India & Ors.

... Respondents

For petitioner: Mr. Randhir Singh Kalkal, Advocate

For respondents: Mr SP Sharma, Advocate with Major Sarika P

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S. DHILLON, MEMBER

ORDER

10.05.2013

Issue notice.

Mr. SP Sharma, learned counsel for respondent accept notice.

1. Heard learned counsel for both the parties. This is an execution applicable filed by the petitioner for execution of the order

passed by this Tribunal dated 10.01.2013 following the case of Virender Singh Vs. Union of India

2. Learned counsel for the respondents has submitted that though the decision of Virender Singh has been upheld by the Hon'ble Supreme Court and SLP of Union of Indian was dismissed by the Supreme Court on 13.12.2010. Resultantly, position is judgment of the Virender Singh stood upheld. In the case of Virender Singh, the Chandigarh Bench had directed to implement the order of the Govt. date 12.06.2009. the order dated 12.9.2009 which reads as under:

No.1(8)/2008-D (Pen/Policy)
Government of India
Ministry of Defence
(Department of Ex-Servicemen Welfare)
New Delhi, the 12th June, 2009

To

The chief of the Army Staff

Subject: Notional Pay Fixation of Honorary Ranks for the purpose
of Pension – Recommendations of the Sixth Central Pay
Commission contained in Para 5.1.62.

Sir,

I am directed to say that in pursuance of Government decision on the recommendations of the Sixth Central Pay Commission contained in Para. 5.1.62 of Chapter V of the Report, the President is pleased to decide that Honorary rank of Naib Subedar granted to Havildars will be notionally considered as a promotion to the higher

grade pay will be allowed notionally for the purpose of fixation of pension only. Accordingly, additional element of pension of Rs.100/- pm payable to Havildars granted Hony rank of Naib Subedar as per Regn. 137 of Pension Regulations for the Army Part-I (1961), amended vide this Ministry's letter No.1 (1)/88/D (Pen/Sers) dated 6.11.1991 will cease to be payable. The notional fixation of pay in the rank of Naib Subedar will not be taken into account for payment of retirement gratuity, encashment of leave, composite transfer grant etc.

2. This letter takes effect from 1st January, 2006.

3. This issue with the concurrence of Finance Division of this Ministry vide their UO No.2351/Finance/Pension dated 3.6.2009.

Sd/

Harbans Singh

Director (Pension/Policy)

3. The main intention of the order dated 12.06.2009 was to give benefit in Pension to the Havildars who were granted Honoray rank of Nb Subedar (Promotion post). Previously they were only getting Rs.100 for the Honoray rank of Nb Subedar, now they will be fitted in the higher pay band of NB Subedar for the purpose of fixation of pension only. It was amply clarified that this will be only be for purposes of fixation of pension only and they will not get other

benefit of NB Subedar e.g. payments of retirement gratuity, encashment of leave, composite grant etc. the purpose was to give a better pension. The entitlement of Pension is only on retirement. Prior to that there is no grant of pension. Therefore, the order itself says that Havildars who have been granted Honorary rank of Nb Subedar will be fixed in pay band of Nb Subedar for purpose of Pension only. The exercise of grant of Honorary Rank is done of 15 August and 26 January of every year. The scrutiny of record begins early when incumbent is in service as this process takes lot of time because record of large number of persons is required to be scrutinised. But it is given after retirement and it can be availed after retirement only. Since honorarium of Rs.100 was found to be pittance, therefore, it was made remunerative in pension.

4. There is reservation in the minds of respondents in execution of order and implementation of Government order dated 12.06.2009 on account of subsequent order of Hon'ble Supreme Court. Hon'ble Supreme Court in the case of Union of India Vs. Sohan Lal Bawa, while dismissing the petition of Union of India on the basis of earlier order in the case of Union of India Vs. Virender Singh their Lordships made following observation:

"it needs, however, to be clarified that the decision of the Armed Forces Tribunals shall relate only to the cases of

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Havildars who, before their retirement, were granted honorary promotion to the rank of Naib Subedar and shall not be used as a president in case of other ranks."

It appears that the attention of the Hon'ble Supreme Court was not properly invited to the fact that honorary ranks are normally granted only after the retirement. A review Application was filed before the Hon'ble Supreme Court by the Union of India and this matter again came up before the Hon'ble Supreme Court, however, same was dismissed on 06.03.2013 on the ground of limitation and on merit. Therefore, this confusion still persists.

5. As far as the execution of this order is concerned we don't find any impediment in granting pension to all the Honorary Nd Subedar since they have been granted the rank of Honorary Nb Subedar after this retirement in accordance with Govt. letter of 12.06.2009. The order dated 12.06.2009 is very clear that this benefit of Honorary Nb Subedr will be availed to them only for the purpose of fixation of pension. Since pension is only admissible to the Havildars after they have retired it is evident that they will be entitled to such post-retirement increase in pension. Similarly, Para 28 of Govt. of India, Integrated Headquarters, Ministry of Defence Order dated 16.05.2008 clarifies the position that the rank of Nb Subedar and Naib Risaldar is granted on retirement of within one year of their becoming non-effective immediately after retirement. As such we

don't see any difficulty in directing the respondents to implement the order dated 12.06.2009. This petition is accordingly disposed off.

6. Learned counsel for respondent prays for leave to appeal to the Hon'ble Supreme Court. There is no question of law of public importance involved in this matter and we have decided the matter on the basis of Government Orders. As such we don't think it is a fit case to grant leave to appeal before the Hon'ble Supreme Court as it does not involve any question of public importance. Therefore, the oral application for leave to appeal is rejected.

All similar cases are disposed off in the light of above orders.

Order dasti.

(A.K. MATHUR)
CHAIRPERSON

(S.S. DHILLON)
MEMBER

New Delhi

Dated the 10th May 2013

cs

//True Copy//

Office of the PCDA(P), Draupadi Ghat, Allahabad-21101

Email: cda-albd@nic.in Fax No.0532-2421869, 2423549, 2420330

No.Sangam Cell/complaint/Officer/2016

DATE: 27/04/2016

To

Capt. M.G. Hedge (Retd)

No.24, Sena Vihar

Kammanahalli Main Road

Bengaluru-560043

SUB:- Issue Corr PPO in respect of Capt. M.G.Hedge (Retd).

Ref:- Grievance No. DOPPW/E/2016/3151 dated 12/04/2016.

Kindly refer to your letter No. dated 02-03-2016 with PCDA (P) Grievance No. G-15880 dated 19/04/2016. In this connection it is intimated the Qualifying service in the 6th CPC Corr PPO will be issued as under:-

- (1) As per AO 56/2011 para (I) states that in the past there was a provision for counting of pre-commissioned service in the ranks of the Armed Forces and civil department of Govt. of India towards pension of permanent commissioned service was being counted for pension. It was raised to two-thirds w.e.f. 01/07/1966 and full w.e.f.01/07/1986.

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(2) The issues of counting pre commissioned service was revised by the fourth central pay commission service on or after 01/01/1986, vide Note No.(4) under para 5 of Govt. of Indian, Ministry of defence letter No.1(5)/87/D/(Pen/Sers) dated 30/10/2987 which reads as follows.

The weightage is auto calculated as per the table under Cir No.500. Hence No separate information is required to be give. The same will be available on the public domain of the PCDA (P) Allahabad/Govt of India letter No.1(6)/1988/D/(Pen/Ser) dated 30-02-1988.

Your contention of all the case of pre-01/01/1996 case will be dealt as per order on the subject i.e. Prior to 01/07/1966 Qualifying service of OR will be $\frac{1}{2}$ of the gross OR qualifying service to commission service. After 01/07/1966 and up to 31/12/1985, $\frac{2}{3}$ rd of the qualifying service, and from 01/01/1986 full qualifying service will be added to the commissioned service.

In your case you have retired on 10/04/1979. Hence the net qualifying service to be added in the commissioned service in $\frac{2}{3}$ rd of gross OR service (i.e. $\frac{2}{3}$ rd of 07years 05 month 11 days=4years 11 month 21 days)

Encl: As above

Sd/-

AO (SANGAM CELL)

N.O.O.

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Copy to:-

Brig. C S Vidyasagar (Retd) President TSEWA Regt No.495/2015, Register of socy, Hyderabad Plot No.16, Bajrangnagar Colony, Risala Bazar Bolaram, Hyderabad-500010	For information it is required to laize with all the officer, who are having the doubt in the above case.
The OI/C Complaint Cell (Local)	For information w.r.t. grievance diary No. G-15880 dtd. 19/04/2016.

Sd/-

AO (SANGAM CELL)

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Annexure-P-15

Revision of pension of pre-2006 pensioners (JCOs/ORs and Commissioned Officers) -delinking of qualifying service of 33 years for revised pension: DESW Order

No.1(2)/2016-D(Pen/Pol)

Government of India

Ministry of Defence

Department of Ex-Servicemen Welfare

New Delhi, Dated , the 30th September 2016

The Chief of the Army Staff,

The Chief of the Naval Staff,

The Chief of the Air Staff,

Subject: Revision of pension of pre-2006 pensioners (JCOs/ORs and Commissioned Officers) -delinking of qualifying service of 33 years for revised pension.

The undersigned is directed to refer to this Ministry's letter No-7(4)/2008(1)/D(Pen/Pol) dated 11.11.2008 as amended, for implementation of government decision on the recommendations of the Sixth CPC for revision of pension family pension in respect of Pre-2006 Armed Forces pensioner/Family pensioners. As per provisions contained in Para 5 of the letter, revised pension and revised ordinary family pension of all Pre-2006 Armed Forces pensioners/Family pensioners determined in terms of fitment

formula laid down in Para 4.1 of above said letter dated 11.11.2008 should in no case be lower than fifty percent and thirty percent respectively, of the minimum of the pay band plus the Grade pay corresponding to the pre-revised scale from which the pensioner had retired/discharged/invalided out/died including Military Service Pay and 'x' Group Pay, where applicable. The pension so calculated had to be reduced pro-rata where pensioner had rendered less than 33 years of qualifying service.

2. The above minimum guaranteed pension was revised w.e.f. 24.09.2012 vide GOI, MOD letter No. 1(11)/2012/D(Pen/Pol) dated 17.01.2013 in case of commissioned officers. As-per this letter, with effect from 24.09.2012, the minimum guaranteed pension in respect of Pre-2006 commissioned officers/family pensioners should be determined as fifty and thirty percent respectively of the minimum of the fitment table for the rank in the revised pay band as indicated under fitment tables annexed to SAI 2/8/2008 as amended (equivalent instructions for Navy & Air Force) and SAI 4/S/2008 (for MNS Officers), plus grade pay corresponding to the Pre-revised scale from which the pensioner had retired/discharged/invalided out/died including M.S.P. The minimum guaranteed pension/family pension in respect of Pre-96 retired EC/SSC officers should be revised w.e.f. 24.09.2012 as 50% / 30% respectively of the pay in pay band corresponding to the pre revised scale of pay of Rs, 10500/- (in terms of para 9(a)(i) of SAI

1/S/2008) plus grade pay of Rs 5400/ and M.S.P. of Rs. 6000/-.

3. The above minimum guaranteed pension was further revised, vide Ministry's letter No. 1 (04)/2015/(I)-O(Pen/Pol) dated 3rd September, 2015 (in r/o JCOs) and Letter No- 1(04)/2015/(11)-D(Pen/Pol) dated 3rd September, 2015(in r/o JCO/ORS). Pension/family pension in respect of Pre- 2006 Armed Forces pensioners/Family pensioners, has been determined as fifty and thirty percent respectively of the minimum of the fitment table for the rank in the revised Pay Band as indicated under fitment tables annexed with 1/8/2008, 2/8/2008, 8 4/8/2008 as amended and equivalent instructions for Navy and Air Force, plus Grade Pay corresponding to the pre-revised scale from which the pensioner had retired/ discharged/invalided-out/died including Military Service Pay and 'X'- group pay where applicable w.e.f. 01.01.2006. However, vide Ministry's letter No. 1(7)/2014-D'(Pen/Pol) dated 31.07.2015, the minimum guaranteed pension in case of Medical Officers of AMC/ADC/RVC has been revised by adding NPA, @ 25% of minimum of fitment table for the rank In the revised Pay band as indicated In the fitment table annexed with SAI 2/S/2008.

4. Now, .GOI, Ministry of Personnel, PG & Pensions, Department of Pension Pensioners' Welfare has Issued OM, No. 38/37/08-P&PW (A) dated 06.04.2016 for delinking of Qualifying Service with- pension for revision purpose. Therefore, it has been decided that

w.e.f. 1.1.2006, revised consolidated pension and family pension of pre-2006 armed forces pensioners shall not be lower than 50% and 30% respectively of the minimum of the pay in the Pay band plus Grade Pay corresponding to the pre-revised scale from which the pensioner had retired/discharged/invalided out/died including Military Service Pay and X group pay, if any, without pro-rata reduction of pension even if they had rendered qualifying service of less than 33 years at the time of retirement. Accordingly, Para 5 of this Ministry's letter dated 11.11.2008 would stand modified to this extent.

5. Revised table's indicating minimum guaranteed retiring/service pension and Ordinary family pension have been annexed to this letter as follows:-

Annexure A for commissioned officers (JCOs)

Annexure B for Army Pensioners (JCOs/ORs)

Annexure C for Air force Pensioners (JCOs/ORs)

Annexure D for Navy pensioners (JCOs/ORs)

Pension Disbursing Agencies (PDA) are hereby authorized to step up the pension/ family pension of the affected pre-2006 pensioners where the existing pension being paid to the pensioners, is less than the rata of pension indicated in above said annexures. Necessary implementation instructions to all concerned shall be issued by principal CDA (Pensions), Allahabad

6. The provisions of this letter shall take effect from 01.01.2006 and arrears, if any, shall be payable from 01.01.2006. Further, the pension/Family pension of the Armed Force Personnel has been revised a number of times in past vide various letters issued by this Ministry, therefore, if pension already revised w.e.f. 01.01.2006, 01.07.2009, 24.09.2012 & 01.07.2014(OROP) under respective Govt. orders happens to be more than this amount then Retiring/Service and Family Pension as per above orders will continue to be paid as basic pension during that period.

7. Payment of Life Time Arrears (LTA)

If a pensioner to Whom the benefit accrue-s under the provisions of this letter has died/dies before receiving the payment of arrears, the Life Time Arrears of Pension (LTA) shall be paid in the following manner:-

(a) If the claimant is already in receipt of Family Pension or happens to be the person in whose favour Family Pension already stands notified and the awardee has not become Ineligible for any reason, the LTA under the provisions of this letter should be paid to such a claimant by the P'D-A on their own.

(b) if the claimant has already received LTA in the past in respect of the deceased to whom the benefit would have accrued. the LTA under the provisions of this letter should also be paid to such a claimant by the PDA on their own.

(c) If the Claimant is a person other than the one mentioned at 7(a) & 7(b) above, payment of LTA shall be made to the legal heir/heirs as per extant Government orders on the subject.

8. Additional pension:

The rate prescribed in these orders shall be the minimum guaranteed basics pension from 1.1.2006. Additional pension as applicable to the old aged pensioners/ family pensioners on attaining the relevant age (80 years and above) shall also be enhanced by the PDAs, where beneficial from 1.1.2006 or the date from which the pensioner attain the age of 80 years or more, whichever is later as per the extant orders on the subject.

9. All other terms and conditions shall remain unchanged.

10. This issues with the concurrence of Finance Division of this Ministry vide their ID No. 10(6)/2016/FIN/PEN dated 29.9.2016.

5 . Hindi version will follow.

Yours faithfully,

(Manoj Sinha)

Under Secretary to the Government of India

//True Copy//

Annexure-P-16

(TO BE PUBLISHED IN THE GAZETTE OF INDIA
(EXTRAORDINARY), PART I, SECTION-III)

GOVERNMENT OF INDIA

MINISTRY OF DEFENCE

DEPARTMENT OF EX-SERVICEMEN WELFARE

RESOLUTION

New Delhi, the 30th September, 2016

No.17(1)/2014/D(Pension/Policy). The Terms of Reference of the Seventh Central Pay Commission as contained in Ministry of Finance (Department of Expenditure) Resolution No.1/1/2013-E.III (A), dated 28.2.2014, as amended vide Resolution, dated 8.9.2015, inter- alia, included the following:

"To examine, review, evolve, and recommend changes that are desirable and feasible regarding the principles that should govern the emoluments structure, concessions and facilities/benefits, in cash or kind as well as the retirement benefits of the personnel belonging to the Defence Forces, having regard to the historical and traditional parities, with due emphasis on the aspects unique to these personnel".

2. The Commission submitted its report to the Government on 19th November, 2015. Government has considered the recommendations of the Commission on pensionary benefits to the personnel belonging to the Defence Force contained in Chapter 10.2 of the Report of the Commission and have decided that the

recommendations shall be broadly accepted subject to certain modifications.

3. Detailed recommendations of the Commission relating to pensionary benefits and the decisions taken thereon by the Government are listed in the statement annexed to this Resolution.

4. The revised provisions regarding pensionary benefits will be effective from 01.01.2016.

(K.Damayanthi)

Joint Secretary to the Govt. of India

ANNEXURE

Statement showing the recommendations of the Seventh Central Pay Commission relating to principles which should govern the structure of pension and other terminal benefits contained in Chapter 10.2 of the Report and the decisions of Government thereon.

Item No.	Recommendation for past Defence Forces personnel	Decision of Government
1	<p>Revision of Pension of pre 7th CPC retirees</p> <p>The Commission recommends the following pension formulation for Defence Forces Personnel who have retired before 01.01.2016:</p>	<p>Both the options recommended by the 7th Central Pay Commission as regards pension revision be accepted subject to</p>

<p>(i) All the Defence Forces who retired prior to 01.01.2016 (expected date of implementation of the Seventh CPC recommendations) shall first be fixed in the Pay Matrix being recommended by this Commission, on the basis of the Pay Band and Grade Pay at which they retired, at the minimum of the corresponding level in the matrix. This amount shall be raised, to arrive at the notional pay of the retiree, by adding the number of increments he 1 she had earned in that level while in service, at the rate of three percent. Military Service Pay shall be added to the amount which is arrived at after notionally fitting him in the 7th CPC matrix. Fifty percent of the total amount so arrived at shall be the revised pension.</p> <p>(ii) The second calculation to be carried out is as follows. The pension, as had been fixed at the time of implementation of the VI CPC recommendations, shall be multiplied by 2.57 to arrive at an alternate value for the revised pension.</p> <p>(iii) Pensioners shall be entitled to the higher of the two.</p> <p>It is recognized that the fixation of the pension as per formulation (i) above may take a little time since the records of each</p>	<p>feasibility of the implementation.</p> <p>Revision of pension using the second option based on fitment factor of 2.57 be implemented by multiplying the pension drawn on 31.12.2015 immediately. The first option may be made applicable if its implementation is found feasible after examination by the Committee comprising Secretary (Pension) as Chairman and Member (Staff) Railway Board, Member (Staff) D/o Posts, Additional Secretary &FA M/o Home Affairs and Controller General of Accounts as Members</p>
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	<p>pensioner will have to be checked to ascertain the number of increments earned in the retiring level. It is, therefore, recommended that in the first instance the pension, may be fixed in terms of formulation (ii) above, till final fixation of the pension under the Seventh CPC matrix is undertaken.</p> <p>(Para 10.2.87 & 10.2.88 of the Report)</p>	
2	<p><u>Rates of Pension, Family Pension & Special Family Pension</u></p> <p>The Commission does not recommend any further increase in the rate of Pension for JCOs/ORs. (Para 10.2.22)</p> <p>No change is being recommended by the Commission for either civilian or defence pensioners in Enhanced Ordinary Family Pension. (Para 10.2.33)</p> <p>No further increase in the existing rate of Special Family Pension is recommended by the Commission. (Para 10.2.35)</p>	Accepted.
3	<p><u>Additional Pension and Family Pension to the older pensioners.</u></p> <p>No further increase in the existing rate of additional pension and additional family pension with advancing age is</p>	Accepted.

	<p>recommended by the Commission.(Para 10.2.24)</p> <p>No further increase in the existing rate of additional pension and additional family pension with advancing age is recommended by the Commission.(Para 10,2.37)</p>	
4	<p><u>Pre-2006 Honorary Naib Subedar</u></p> <p>This Commission does not find any merit in re-opening an issue that has been clearly settled. Therefore no change is Being recommended in this regard. (Para 10.2.26)</p>	Accepted.
5	<p><u>Defence Security Corps (DSC) personnel</u></p> <p>The Commission does not recommend reduction in the qualifying service for entitlement of second pension to Defence Security Corps (DSC) personnel from 15 to 10 years. (Para 10.2.28)</p>	Accepted.
6	<p><u>Depression in Pension for Qualifying Service</u></p> <p>The Commission observes that pension formulation is appropriate and finds no justification for a review of the existing arrangements with regard to pension of Territorial Army personnel.(Para 10.2.30)</p>	Accepted.

7	<p>Inclusion of War Injury Element/Disability Element in Computation of Family Pension</p> <p>The Commission has not recommended any further change in the existing provisions with regard to inclusion of war injury element/disability element in the computation of family pension. (Para 10.2.39)</p>	Accepted.												
8	<p><u>Enhancement in rate of disability pension.</u></p> <p>The Commission is of the considered view that the regime implemented post VI CPC needs to be discontinued, and recommended a return to the slab based system. The slab rates for disability element for 100 percent disability would be as follows</p> <table border="1"> <thead> <tr> <th>Rank</th><th>Levels</th><th>Rate per month(INR)</th></tr> </thead> <tbody> <tr> <td>Service Officers</td><td rowspan="2">10 and above</td><td rowspan="2">27000</td></tr> <tr> <td>Honorary Commissioned Officers</td></tr> <tr> <td>Subedar Major /Equivalents</td><td rowspan="3">6 to 9</td><td rowspan="3">17000</td></tr> <tr> <td>Subedar /Equivalent</td></tr> <tr> <td>Naib Subedar</td></tr> </tbody> </table>	Rank	Levels	Rate per month(INR)	Service Officers	10 and above	27000	Honorary Commissioned Officers	Subedar Major /Equivalents	6 to 9	17000	Subedar /Equivalent	Naib Subedar	Accepted
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9	<p><u>Enhancing the Cover of Disability.</u></p> <p>The Commission recommends broad-banding of disability for all personnel retiring with disability, including premature cases/ voluntary retirement cases to disability greater than 20 percent.(Para 10.2.57)</p>	Accepted.								
10	<p><u>Additional old age Pension should be Applicable for Disability/War Injury Pension.</u></p> <p>No further enhancement by inclusion of elements of disability/ war injury pension has been recommended by the Commission.(Para 10.2.59)</p>	Accepted.								
11	<p><u>Neither Attributable Nor Aggravated (NANA) cases, be awarded Disability Pension</u></p> <p>The Commission recommends that while the existing regulations involving disability Neither Attributable Nor Aggravated (NANA) by service may continue, it is for the authorities to establish, in each case, through a reasoned order that disability was Neither Attributable Nor Aggravated</p>	Accepted.								

	ANA) by military service. (Para 10.2.61)	
12	<p><u>War Injury Pension where Individual is Retained in Service</u></p> <p>The Commission does not recommend any change in the existing regime of payouts for those with war injury and retained in service. (Para 10.2.63)</p>	Accepted.
13	<p><u>Ex-gratia Lump Sum Compensation to Invalided out Defence Personnel.</u></p> <p>The Commission has recommended an increase in the existing lump sum compensation of Rs. 9 lakh for 100 percent disability to Rs. 20 lakh. However it finds no justification to recommend broad banding for payment of Ex-gratia award to service personnel boarded out on account of disability/war injury attributable to or aggravated by military service.(Para 10.2.65)</p>	Accepted.
14	<p><u>Ex Gratia Disability Award to Cadets.</u></p> <p>The Commission, however, keeping in views the facts relating to cadets recommends an increase ex-gratia disability award from the existing Rs. 6,300 per month to Rs. 16,200 per month for 100 percent disability. (Para 10.2.67)</p>	Accepted.

//True Copy//

Annexure-P-17

No.17(1)/2016-D(Pen/Pol)
Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare
New Delhi

Dated 29th October 2016

To
The Chief of the Army Staff
The Chief of the Naval Staff
The Chief of the Air Staff

Sub: Implementation of Government's decision on the recommendations of the Seventh Central Pay Commission- Revision of Pension of Pre-2016 Defence Forces Pensioner/Family Pensioners.

Sir

The undersigned is directed to state that in pursuance of Government's decision on the recommendations of 7th Central Pay Commission, notified vide Government of India, Ministry of Defence Resolution No.17(1)/2014/D(Pen/Policy) dated 30th September 2016 based on Ministry of Personnel, Public Grievances and Pension, Department of Pension & Pensioners Welfare Office Resolution No. 38/37/2016-P&PW(A) dated 4th August, 2016 and Office Memorandum F.No.38/37/2016-P&PW(A)(ii) dated 4th August, 2016, sanction of the President is hereby accorded to regulate the Pension/Family Pension of all Pre-1.1.2016 pensioners/family pensioners of the Defence Forces with effect from

1.1.2016 in the manner indicated in succeeding paragraphs. Separate Orders will be issued by this Ministry in respect of Defence Force Personnel who retired/died on or after 1.1.2016 and for revision of disability element in respect of Pre-2016 Defence Pensioners.

2. Applicability : These orders shall apply to all Defence Forces pensioners/family pensioners who were drawing pension/family pension as on 1.1.2016 under the Pension Regulations of the three Services/ State Forces and various Government orders issued from time to time.

3. Non-Applicability : The provisions of this letter do not apply to the following categories:

- (i) Gallantry awardees drawing only monetary allowance attached to the award, such as Param Vir Chakra, Ashok Chakra etc.
- (ii) United Kingdom/Hong Kong & Singapore Royal Army(UK/HKSRA) Pensioners.
- (iii) Persons in receipt of Compassionate Allowance, Guzara, Reservist Allowance or any other Allowance on which dearness relief is not admissible.
- (iv) Reservists in receipt of Ex-gratia payment at Rs 750/- per month covered under Govt. of India, Ministry of Defence letter No. 1(06)/2010-D(Pen/Policy) dated 22nd Nov 2013.

- (v) Families of the deceased Reservists in receipt of Ex-gratia family pension at Rs 645/- per month, covered by Govt. of India Ministry of Defence letter No.1 (06)/2010-D (Pen/Policy) dated 22nd Nov 2013.

4. Definitions : (a) 'Existing Pensioner' or 'Existing Family Pensioner' means a pensioner who was entitled to/drawing pension/family pension on 31.12.2015. This will also include a pensioner/family pensioner who became entitled to pension/family pension with effect from 1.1.2016 consequent upon retirement/discharge/death of Defence Forces Personnel on 31.12.2015. For the purpose of family pension, it also covers members of family to those who retired/discharged prior to 1.1.2016 and in whose case family pension had not commenced as the pensioner was alive on 31.12.2015.

(b) 'Existing Pension' means the basic pension inclusive of commuted portion of pension, if any, due on 31.12.2015 and covers all kinds of pension viz. Retiring/Service/ Special/Reservist/Invalid Pension/ Service element of Disability/ Liberalized Disability Pension/ War Injury Pension. This will also include Pension/Family Pension which became due with effect from 1.1.2016 consequent on retirement/discharge/ death of Defence Force Personnel on 31.12.2015.

(c) 'Existing Family Pension' means the basic family pension drawn on 31.12.2015 under the Pension Regulations of the three Services/ State Forces and other orders issued on the subject from time to

time. It also covers Special Family Pension/ Dependent Pension/2nd Life award of Special Family pension and Liberalized Family pension sanctioned in battle and non-battle casualty cases.

(d) 'Pension Disbursing Agency' (PDA) means Treasury, Post Office, Pay and Accounts Office, Defence Pension Disbursement Office (DPDO), Indian Embassy, Nepal and authorized Public Sector/Private Sector Banks.

(e) 'Pension Sanctioning Authority' (PSA) means PCDA (Pensions) Allahabad, PCDA (Navy) Mumbai, and CDA (AF) Delhi, as the case may be.

5. Revision of Pension : 5.1 For existing pensioners, who have retired/died before 01.01.2016, the revised pension/family pension with effect from 01.01.2016 shall be determined by multiplying the Basic Pension (before commutation)/Basic Family Pension (exclusive of Dearness Relief) as had been drawn as on 31.12.2015 by 2.57 to arrive at revised pension under 7th Pay Commission. The amount of revised pension/family pension so arrived at shall be rounded off to next higher rupee. The Disability Element will be regulated as per Para 9. Illustrations for revision of pension are annexed in Annexure-A attached to this letter...

5.2 For this purpose, the existing Pension/Family Pension will be the Basic Pension(before commutation)/ Basic Family Pension only without the element of Additional Pension (referred to at Para 12) available to the old pensioners! family pensioners of the age of 80

years and above. The Additional Pension/Family Pension payable to the old pensioners/family pensioners will be worked out in accordance with Para 12 of this order.

5.3 Since the revised pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

5.4 Minimum and Maximum Pension: The minimum basic pension with effect from 01.01.2016 will be Rs. 9000/- per month (excluding the element of additional pension admissible to old pensioners). The upper ceiling of pension/ family pension will be 50% and 30% respectively of the highest pay in the Government (The highest pay in the Government is Rs. 2,50,000/- with effect from 01.01.2016).

5.5 The revised Pension/Family Pension arrived at as per paragraph 5.1 includes dearness relief sanctioned from time to time by the Government.

6. Where the revised Pension Family Pension in terms of paragraph 5.1 above works out to an amount less than Rs. 9000/-, the same shall be stepped up to Rs. 9000/-. This will be regarded as Pension/Family Pension with effect from 11.2016.

7. The existing instructions regarding regulation of Dearness Relief to employed/ re-employed pensioners/family pensioners, as contained in Department of Pension & Pensioner's Welfare OM. No.

45/73/97-P&PW(G) dated 02.07.1999 and as amended from time to time, shall continue to apply.

8. Applicability to Permanent absorbees in PSUs/ Autonomous Bodies: Pension of a Defence Forces Personnel who has been permanently absorbed in Public Sector Undertaking/Autonomous Body will be regulated as under:

8.1 Pension: Where the Defence Force Personnel on permanent absorption in Public Sector Undertaking/ Autonomous Body continues to draw pension separately from the Government, the pension of such absorbees will be revised in terms of these orders. In cases, where the Defence Forces Personnel has drawn one time lump-sum terminal benefits equal to 100% commutation of the pension and has become entitled to the restoration of 43% / 45% commuted portion of pension as per the orders issued by this Ministry from time to time, such cases will not be covered by these orders. Orders for regulating pension of such pensioners will be issued separately.

8.2 Family Pension: In cases, where on permanent absorption in Public Sector Undertakings/Autonomous Bodies, the family pension is being drawn by the family of the PSU absorbee under the orders applicable to the Defence Forces, the same will be revised in accordance with these orders.

9. Disability Element: The implementation of 7th Pay Commission recommendations relating to methodology for calculation of disability

element has been referred to the Anomalies Committee. The disability element which was being paid to pre-2016 Defence Pensioners as on 31.12.2015 will continue to be paid till decision on the recommendations of Anomalies Committee is taken by the Government.

10. Following elements will continue to be paid as separate elements in addition to the Pension/Family Pension revised under these orders. These payments will not be taken into account for the purpose of revision as well as for applicability with regard to the minimum limit of Pension/Family Pension is. Rs. 9000/- per month.

- (i) Monetary Allowance attached to Gallantry Awards such as Param Vir Chakra, Ashok Chakra etc.
- (ii) Constant Attendant Allowance (CAA), matter to be examined by Committee comprising Finance Secretary and Secretary(Expenditure) as Chairman and Secretaries of Home Affairs, Defence, Posts, Health & Family welfare, Personnel & Training and Chairman Railway Board as members. Till a final decision is taken on the recommendation of the Committee, Constant Attendant Allowance shall be paid at the existing rates.

11. Where a pensioner is in receipt of Disability Liberalized Disability War Injury Pension, the minimum limit of Rs. 9000/- will be applicable to Service Pension/Service Element. Disability/ War Injury

Element will be payable in addition to Service Pension/Service Element.

12. Additional Pension for Pensioners of age 80 years and above:
The quantum of Additional Pension/Family Pension available to the old pensioners/family pensioners shall be as follows:-

Additional-Pension

The amount of additional pension will be shown distinctly. For example, in case where a pensioner more than 80 years of age and his/her revised pension in terms Para 5.1 above is Rs.1000/- pm, the pension will be shown as (i) Basic pension: Rs 10000 and (ii) Additional Pension Rs 2000 p m (20% of revised basic pension Rs 10000). The pension on his/her attaining the age of 85 yrs will be shown as (i) Basic Pension = Rs 10000 and (ii) additional pension = Rs 3000 pm. Dearness relief will also be admissible on the additional pension available to old pensioners.

(Note: – The additional Pension will not be admissible on Disability Element Liberalized Disability Element / War Injury Element of Disability/Liberalized Disability/ War Injury Pension.)

13. Ex-gratia awards to Cadets in cases of disablement

The following ex-gratia award shall be payable subject to the same conditions as hitherto in force in the event of invalidment of a Cadet

(Direct) on medical grounds due to causes attributable to or aggravated by military training:-

- (i) Payment of monthly ex-gratia award of Rs. 9000/- per month;
- (ii) Payment of ex-gratia disability award @ Rs. 16200/- per month for 100% disability during the period of disablement. The amount will be reduced proportionately from the ex-gratia disability award in case the degree of disablement is less than 100%;

14. Dearness Relief: The revised Pension/Family Pension as worked out in accordance with provisions of Para 5.1 read with Para 6 and additional pension wherever payable under Para 12 above shall be treated as "Basic Pension" with effect from 1.1.2016 for the purpose of calculation of dearness Relief sanctioned thereafter by the Government.

15. Revision of Pension for employed/re-employed pensioners: The revision of pension in respect of employed/re-employed Commissioned Officer and Personnel Below Officer Rank pensioners will also be carried out as per methodology provided in Para 5.1 ie. their Basic Pension as on 31.12.2015 will be multiplied by 2.57 to arrive at revised Pension as on 01.01.2016. The revised pension so arrived at will be the Basic Pension with effect from 1.12016. However, Dearness Relief beyond 1.1.2016 will not be admissible to employed/re-employed Commissioned Officer pensioners and Personnel Below Officers Rank pensioners, whose

pay on re-employment has been fixed above the minimum of scale of pay of the re-employed post during the period of employment/ re-employment.

16. Methodology for Implementation and Reporting

16.1. All Pension Disbursing Agencies handling disbursement of pension to the Defence Pensioners are hereby authorized to pay pension/family pension to existing pensioners/family pensioners at the revised rates in terms of Para 5.1 above without any further authorization from the concerned Pension Sanctioning Authorities.

16.2 It is considered desirable that the benefit of these orders should reach the pensioners as expeditiously as possible. To achieve this objective, it is directed that all Pension Disbursing Agencies should ensure that the revised pension and the arrears due to the pensioners in terms of Para 5.1 above is paid to the pensioners or credited to their account in one installment within two months from the date of issue of the letter.

16.3 A suitable entry regarding revised pension with effect from 1.1.2016 fixed in terms of Para 5.1 above, as the case may be, will be recorded by the Pension Disbursing Agencies in the Pension records of the pensioners viz. Pension Payment Order, Check Register/Pension Payment Scroll Register. An intimation regarding disbursement of revised pension may be sent by the Pension Disbursing Agencies to the Office of PCDA (P), Allahabad in prescribed Annexure to these orders so that records can be

updated. A hard copy of the said Annexure-B may invariably be provided by the PDAs to the pensioners concerned for their information. An acknowledgement shall be obtained by the Pension Disbursing Agencies from Office of PCDA (Pensions), Allahabad in token of receipt of the requisite Annexure.

Miscellaneous Instructions

17. If a pensioner/family pensioner to whom benefit accrues under the provisions of this order, has already died before receiving the payment of arrears, the LTA will be disbursed in the following manner:

- (i) If the claimant is already in receipt of Family Pension or happens to be the person in whose favour Family Pension already stands notified and the awardees has not become ineligible for any reason, the LTA under the provisions of this letter should be paid to such a claimant by the PDAs on their own.
- (ii) If the claimant has already received LTA in the past in respect of the deceased to whom the benefit would have accrued, the LTA under the provisions of this letter should also be paid to such a claimant by the PDAs on their own.
- (iii) If the claimant is a person other than the one mentioned at (i) & (ii). above, LTA will be paid to the legal heir/heirs as per extant Government orders.

18. No commutation will be admissible for the revised pension accruing as a result of this revision. The existing amount of pension commuted, if any, would continue to be deducted from the revised pension while making monthly disbursements.
19. Revision of Pension/Family Pension under these orders will not affect the amount of Retirement Gratuity/ Death Gratuity already determined and paid to the pensioners/ family pensioners with reference to rules in force at the time of discharge/death.
20. Any overpayment of pension coming to the notice or under process of recovery shall be adjusted in full by the Pension Disbursing Agencies against arrears becoming due on revision of pension on the basis of these orders.
21. The revision of pension/ family pension of Defence pensioners arrived in the above manner shall be subject to the findings and recommendation of the committee set up with the approval of the Cabinet to examine the feasibility of increment based formulation recommendation of 7th Pay Commission for revision of pension and decision of the Government thereon if any.
22. These orders issue with the concurrence of the Finance Division of this Ministry vide their ID No. 10(6A)/2016/FIN/PEN dated 29.10.2016.

Sd/-

(Manoj Sinha)

Under Secretary to the Government of India

//True Copy//