

Legal Brief on Implementation of One Rank One Pension – 2018
with Financial Benefit from Jul 2019

Introduction

1. Tri-Services Ex-Servicemen Welfare Association (hereinafter known as TSEWA) was formed by few retired personnel of Armed Forces in Jun 2015 in Secunderabad, Telangana with avowed purpose of providing welfare to large number of Ex-Servicemen living in various states and union territories of our country. As on date the membership stands at 14,455 veterans who joined the organization. TSEWA has been seeking justice whenever a due was denied by approaching courts of law. TSEWA approaches the Hon'ble High Court of Telangana, Hyderabad to issue directions to the Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare (hereinafter is known as MoD/ESW) to implement One Rank One Pension (hereinafter is known as OROP) due in calendar year 2018 with financial benefit from Jul 2019 to all Ex-Servicemen who are entitled for pension.

2. **OROP.** The pension of those retired earlier years was much lesser than that of the present retirees of the same rank, same length of service and same group X or Y (only for Junior Commissioned Officers / Other ranks) of the three wings of the Armed Forces. The pension at the time of retirement of earlier retirees is enhanced by a factor known as fitment factor by successive Central Pay Commissions whereas the current

retirees draw much higher pension due to their higher basic pay. The irony was that junior ranked retirees with much lesser service retired in later years used to draw much higher pension compared to senior ranked retirees who retired much earlier. Therefore, the demand of the more than 25 lakh Ex-Servicemen and widows of Ex-Servicemen was to equalize pensions for the same rank, same length of service and same group (X or Y) irrespective date of retirement. The demand of OROP from Ex-Servicemen has been lingering on since 1973 but successive governments denied the same for one reason or the other. The Rajya Sabha Petitions committee chaired by Shri Bhagat Singh Koshiyari, presently the HE the Governor of Maharashtra, discussed the issue of OROP from 2011 with all stake holders and finally recommended in 2013, implementation of OROP to the Ex-Servicemen of three wings of Armed forces viz , Army, Navy and Air Force . The committee saw the pensions of earlier retirees was found to be much lesser than the present retirees of the same rank, same length of service and same group X or Y (for JCOs / OR). The hon'ble committee gave definition of OROP as equalization of pension irrespective of date of retirement with current retirees of same rank with same length of service and same group (for JCOs / OR) and any future benefit in pension given to present retirees shall be passed on to the past pensioners irrespective of their date of retirement.

3. Finally, the dream of Ex-Servicemen of four decades to get OROP got a boost, when Shri Narendra Modi, the PM candidate for general elections in 2014 announced in Rewari, Haryana on 13 September 2013 in an Ex-Servicemen rally that if his party is elected to power in 2014 general elections, then they will sanction OROP. The promise of the then PM candidate gave hopes to the Ex-Servicemen that their decades long struggle for OROP has finally come to fruition. Sensing the Ex-Servicemen and their vast number of relatives may vote for BJP, the UPA government (which resisted OROP from 1973) in their vote on account budget in Feb 2014 approved OROP and allocated Rs.500 crores.

4. The Ex-Servicemen believing the promise on OROP made by the PM candidate during his campaigning in Sep 2013 voted en-masse for his party in the General Elections of 2014 and assisted in bringing them to power in the Central Government. The party of hon'ble PM gave few Ex-servicemen tickets to contest the 2014 general elections to Lok Sabha and they easily won due to the overwhelming support of Ex-Servicemen and their relatives. The NDA Government in their regular budget of financial year 2014-15 allocated a sum of Rs. 1,000 for OROP as the net outgo on account of OROP could not be ascertained by then as OROP is a totally new welfare programme. There were lot of consultations among the Defence Accounts Department, three Service

HQs and MoD/ESW to arrive at the modality of OROP. The demand of Ex-Servicemen was for yearly revision of pension as the pension of current retirees goes up every year for the same rank and same length of service due to annual increments. But the Govt of India, MoD finally issued a policy letter No 12(1)/2014/D(pen/policy) – Part II dated 07 Nov 2015 (Exhibit A) which specified revision of pension shall be carried out every five years (para 3 v of ibid letter) as against the demand of Ex-Servicemen for yearly revision of pension. The pension of pre-Jul 2013 retirees was equated with average pension (half of sum of maximum and minimum pension) drawn by those soldiers retired in calendar year 2013.

5. Majority of the Ex-Servicemen did not agree to the five yearly revision and went on strike all over India demanding yearly revision of pension as per the definition of OROP by Koshiyari Committee of Rajya Sabha Petitions. However, as an interim measure the Ex-Servicemen were paid arrears from Jul 2014 in four instalments except widows and gallantry award winners were paid arrears in one go. The total expenditure on OROP- 2013 as per Government's data is about Rs 10,750 crores per annum.

6. **Case filed in Hon'ble Supreme Court for Yearly Revision of Pension.** Disappointed with the MoD / ESW for five year revision of pension, the Indian Ex-Servicemen Movement (hereinafter known as

IESM) , an Ex-Servicemen Organisation based in Delhi filed a case in Hon'ble Supreme Court praying for yearly revision of OROP vis-a – vis five yearly revision of pension of the MoD/ESW and the case is being adjudicated since the last two years.

7. **Case Filed in Hon'ble High Court of Karnataka.** In the meantime, Wg Cdr GB Athri (Retd), an Ex-Servicemen and a resident of Bengaluru has filed a writ petition no W.P No.14345/2020 in Hon'ble High Court of Karnataka, Bengaluru to implement the OROP – 2018 and declassification of One Man Judicial Committee to resolve anomalies arisen on implementation of OROP – 2013. The hon'ble single judge advised as his prayer affects all Ex-Servicemen and Widows of Ex-Servicemen, he should file it as Public Interest Litigation. Accordingly, he was given permission to withdraws his Writ petition and file it as PIL. A copy of PIL is attached as Exhibit B. It is understood as per newspaper reports that the Hon'ble High Court of Karnataka has issued notices to MoD to file an affidavit on the prayer of Wg Cdr GB Athri.

True Meaning of OROP

8. TSEWA obtained data of pensions from few Ex-Servicemen from ranks of Sepoy to Lt Gen who retired in the period Jul 2013 to 2019 to check whether pensions increase every year for those with same rank, same length of service and same group X or Y (only for JCOs / Other ranks). A table was made to show the pensions from Jul 2013 to 2019

(Exhibit C). The hon'ble High Court if it pursues the table concludes that pensions indeed increase every year for the same rank, same length of service and same group X or Y (for JCOs and OR only) of Ex-Servicemen. It was found that this phenomenon is due to annual increments by which the basic pay goes up and also the pensions on retirement. The increment is 3% of basic pay and pensioners get 1.5% more pension due to this. It can be seen how the pension of retired Armed Forces Personnel from Jul 2013 to 2019 goes up year after year for the same rank, for same length of service and for same group for JCOs / OR (X or Y). X group JCOs / OR attain higher technical qualification like diploma hence they get higher basic pay and on retirement get higher pension. Therefore, it is indisputable that OROP means yearly revision of pension. The one who retires one year later gets higher pension than the one who retires one year earlier. Therefore, if OROP is to be implemented in letter and spirit, the past retirees should be given pension of current retirees. That is OROP to be true, the pensions have to be revised every year.

9. TSEWA has seen the pitiable condition of widows of low ranked Sepoys, Naiks and Havildars due to freezing of Dearness Relief (DR) and non-implementation of OROP – 2018. As part of the stated mission of TSEWA i.e. to render welfare to Ex-Servicemen and widows, it decided to approach this Hon'ble High Court of Hyderabad to direct

MoD/ESW to immediately implement OROP – 2018. The contention TSEWA is for yearly revision of OROP remains though we file this case for implementation of OROP - 2018. This increase in pension w.e.f. Jan 2016 on implementation of 7th Central Pay Commission recommendations is substantial due to revision of basic pay of serving personnel. Since the case of IESM is being adjudicated and lower constitutional courts cannot entertain any similar case if filed during the pending of adjudication by Hon'ble Supreme Court, TSEWA has no option but to follow the example given by Wg Cdr GB Athri (Retired) to approach the Hon'ble High Court of Telangana, Hyderabad to direct the MoD / ESW to implement OROP – 2018

10. TSEWA reserves its right to appeal for yearly revision of pension of Ex-Servicemen as per the definition given by the MoD itself at para 2 of their policy letter dated 07 Nov 2015 (Exhibit A) which talks of uniform pension to be paid to all Ex-Servicemen irrespective of date of retirement.

Why Should OROP – 2018 be Immediately Implemented?

11. The pension of widow of Sepoy Group Y with 15 years of service as on date is Rs 12,205 including Dearness Relief of 17% (frozen from Jan 2020 to Jun 2021). Most of the widows of lower ranks live in villages and some of them live in remote localities. They are mostly less educated and have no computer literacy. Moreover, villages do not offer

jobs to such widows. Most of them do not own even a single bed room house and stay in rented accommodation by paying monthly rent of Rs 2,000 to 3,000. They also pay electricity charges ranging between Rs 200 to 400. With freezing of Dearness Relief and non – implementation of OROP – 2018, they find it extremely difficult to make both ends meet and bring up their children. They will immensely benefit if (a) Dearness Relief is restored w.e.f. Jul 2021 and (b) implement OROP – 2018 with financial benefit from Jul 2019. As per information available with TSEWA, the widow will get monthly pension of Rs 15,725 if OROP – 2018 is immediately implemented with unfreezing of Dearness Relief.

12. The likely expenditure of implementation of OROP – 2018 is not likely to be more than Rs 13,500 crores per annum. When the present Government of India during the five year period from 2014 to 2019 could write off Nonperforming assets (NPAs) of state owned banks to the tune of Rs 9.50 lakh crores as per newspaper reports, collect GST of more than Rs 1 lakh crores per month in spite of Covid – 19 pandemic, and could write off loans of farmers running to a few lakh crores per annum, the likely contention of MoD / ESW that they do not have funds to implement OROP – 2018 is hollow.

Contention of Controller General of Defence Accounts (CGDA) Not to Implement OROP – 2018.

13. The Controller General of Defence Accounts (hereinafter known as CGDA) of MoD/ESW has raised some doubts about implementation of OROP – 2018. His contention is since pensions of Ex-Servicemen have been revised w.e.f Jan 2016 there is no need to implement OROP-2018. He further states that few of those retired w.e.f. Jul 2014 who are not covered by OROP – 2013 get lesser pension compared to their equivalents in same rank and same length of service. The contention of CGDA on both counts is misleading, incorrect and factually wrong which is elaborated in succeeding paragraphs

14. **Enhancement of Pension due to 7th CPC and OROP has no Connection.** The MoD policy letter dated 07 Nov 2015 does not mention anywhere that if pensions of Ex-Servicemen is revised along with other Central Govt pensioners due to 7th Central Pay Commission, then OROP falling after five years (i.e. OROP – 2018) will not be implemented. The contention of CGDA is since pensions have gone up w.e.f Jan 2016 due to implementation of 7th CPC recommendations and approved by Govt of India, there is no need to implement OROP – 2018 with financial benefit from Jul 2019 violates the policy letter issued by MoD/ESW dated 07 Nov 2015 (Exhibit A). How can CGDA go against the stated policy to the MoD/ESW to revise pensions every five years? If the recommendation of CGDA is accepted the Ex-Servicemen are back to square one i.e no OROP herein afterwards. It is necessary to point

out OROP was approved in two finance acts of two governments in 2014 and it resulted in issue of policy letter by MoD / ESW dated 07 Nov 2015 (Exhibit A) which guarantees five yearly revision of OROP.

15. **Why Some Who Retired in the Period Jul 2013 to Dec 2015 Got Lesser Pension than their Counterparts who are Beneficiaries**

of OROP – 2013? The second contention of CGDA is some of those retired in the period Jul 2014 to Dec 2015 getting lesser pension than earlier retirees of same rank and same length of service who are beneficiaries of OROP – 2013 is again factually incorrect. Deeper analysis of OROP shows that some of the JCOs / OR get their promotion at the far end of their service and they retire in that promoted rank within one year. Therefore, their pension in some cases is less than those who avail the benefit of OROP – 2013. This is amplified by an illustration. The criterion adopted by Defence Accounts Department and MoD /ESW was in OROP is explained in their policy letter of 07 Nov 2015 (Exhibit A) is to take the average pension of those who retired in calendar year 2013. The average is based on maximum and minimum pension drawn by all ranks with varying length of service from 15 years to 33 years to JCOs and from 20 years to 33 years for Officers and retired in calendar year 2013. Those who are below the average get the benefit of average. For example, one Naik A of Y Group with 15 years' service retired in calendar year 2013 has maximum pension of say Rs

8,170 pm (pension is half of basic pay of Rs 16,340) and another Naik B got minimum pension of Rs 6,1,70 (basic pay at the time of retirement being Rs 12,340 pm) in calendar year 2013. The average works out to Rs 7,170 pm ($= 0.5 \times (8170 + 6170)$) for all Naiks and their equivalents in the other two services viz Navy and Air Force.

16. **Reason for Variation in Basic Pay for the Same Rank.** This variation in basic pay and therefore pensions for the same rank and same length of service is because promotion from Sepoy to Naik (and equivalent ranks in Navy and IAF) is not uniform across all three services i.e. all Sepoys in the three services of one particular year of enrolment do not get promoted on the same year after say 10 years. Some Sepoys get promoted to the rank of Naik in six years and some in other units get promoted in 10 years even if both of them got enrolled in the same year. Even in Army promotions is not uniform in all Corps & regiments. Even in Army, in Infantry Regiment like Maratha Light Infantry (MLI), one battalion may have more number of vacancies due to higher number of discharges in the rank of Naik in that particular year. In another battalion of the same MLI may have lesser number of vacancies due to lesser number of retirements. Sepoys who complete their promotion course from Sepoy to Naik get their promotions faster if there are more vacancies of Naiks in that battalion. Whereas in another battalion of same regiment i.e. MLI, there could be lesser number of

vacancies in the rank of Naik. The Sepoys of this battalion may get promoted to the rank of Naik one or two years later than their counterparts in other battalions. The promotion depends upon few criterions like date of enrolment, medical condition, availability of vacancies of Naik in a unit etc. Since date of retirement is based on fixed number of years of service, the Naik who got promoted earlier has more number of years of service as Naik till he retires and draws annual increment of Naik for more number of years. The increment of Naik is higher than that of Sepoy. The Sepoy who got promoted late has less number of years of service hence draws less number of increments before he retires. The basic pay of Naik who got promoted earlier is much higher at the time of retirement compared to the other Naiks who got promoted late and number of increments he draws of rank of Naik is less. That is the reason why pension of same ranked soldier with same length of service and same groups (X or Y) may get different pensions at the time of retirement in the period Jul 2014 to Dec 2015..

17. **An Illustration.** An example will illustrate this anomaly better. Let us take the case of two Naiks in two different battalions who get promoted in different years i.e. one gets promoted earlier and the other gets promoted later. Let us say Naik A who got promoted earlier (the battalion got more vacancies of Naiks) and gets his basic pay at the time of retirement is say Rs 16,340 and his pension is Rs 8,170. The other

Naik B of another battalion who got promoted later has basic pay of Rs 12,340 at the time of retirement. Both of them retire in the same year with same length of service but their pension is different as one drew more number of increments due his early promotion and the other Naik got lesser pension as he drew lesser number of increments as Naik due to his delayed promotion. This situation cannot be avoided in the Armed Forces unlike in civil where entire batch is promoted at the same time. The pension therefore is Rs 6,170 (minimum) for Naik B and Rs 8,170 for Naik A (maximum) though both of them retired in the same rank and same number of years and in the same year in the period Jul 2014 to Dec 2015. The OROP as worked out by Defence Accounts Department and approved by MoD / ESW is to arrive at average pension of those retired in calendar year 2013 i.e. half of sum of Maximum and Minimum. In this method, the average pension for Naik and equivalents in the other two services with 15 years of service and Group Y comes to Rs 7,170 pm. The MoD / ESW improved pension of those whose pension of those retired earlier than 2013 was below the Average by hiking it to the Average. In this case Naik whose pension is minimum Rs 6,170 due to delayed promotion is beneficiary as his pension was hiked from Rs 6,170 pm to average of Rs 7,170 pm. He gets hike of Rs 1,000 pm in his pension. The one whose pension is already Rs 8,170 (because of earlier promotion) well above the average, his higher pension is protected. With

this methodology of OROP, the pension tables in OROP - 2013 for various ranks for varying length of service is given in Circular 555 dated 04 Feb 2016 of Principal Controller of Defence Accounts (Pensions) Prayagraj / Allahabad (Exhibit D), a subsidiary office of CGDA.

18. But those who retired in the period Jul 2014 to Dec 2015 do not get benefit of OROP on the assumption that their pensions will in any case be higher than those who retired prior to calendar year 2013 and whose pension has been enhanced by OROP. Since those who retired in the period of Jul 2014 to Dec 2015 are not covered by OROP – 2013, their pension is dependent upon the basic pay at the time of retirement. TSEWA has seen few cases where some of the soldiers got promoted to their next rank but retired within one year, thereby they drew one increment. Assume Sepoy C is promoted to the rank of Naik and retires within one year as he completed his total service for the rank of Naik. He drew only one increment as Naik. His basic pay as Naik (promoted rank) even with that one increment may be less than Rs 7,170 when he retired after Jul 2014. His pension therefore is less than average of OROP hence he draws less pension though he retired one year after earlier retirees. CGDA could have simply recommended adoption of OROP for all those who retire till Dec 2015. Pay and pension in any case will be revised w.e.f. Jan 2016 by 7th CPC. It clearly appears from the action of CGDA that his department exists only to ensure no benefit is given to

Armed Forces personnel by deliberately creating anomalies forcing the MoD / ESW to appoint another committee to resolve the anomaly firstly created by CGDA. Only those with malicious intentions and jealous of soldiers and the respect they get from citizens recommend such bizarre actions not to implement OROP – 2018 which benefits majority of 26 lakh pensioners and widows of pensioners. The argument is same ranked soldiers who retired later cannot get lesser pension than those who retired earlier is correct and logical. The demand of OROP arose for this very reason that pension of earlier retirees is much lesser than current retirees. In this case, later retirees get lesser pension hence their pension should be enhanced to the level of OROP pension. The CGDA who is repository of pension regulations should have advised the MoD that the pension of same ranked persons who retire later than OROP – 2013 period cannot be less hence should be enhanced to that of OROP level. The intentions of CGDA whose officers draw Non Functional Financial Upgradation appear not to allow OROP to be given to Ex-Servicemen.

19. **Committee Appointed to Resolve the Anomalies Pointed out by CGDA.** On receiving the ill – thought out and malicious recommendations from CGDA not to implement OROP – 2018 with financial benefit from Jul 2019, the MoD appointed a committee on 14.06.2019 to resolve these issues and nominated the very CGDA

who raised the objections for implementation of OROP as its chairman. How can a committee whose Chairman is hostile to the Ex-Servicemen will ever suggest anomalies to be rectified? It is like a thief being appointed to adjudicate how the theft has taken place. MoD/ESW to meet ends of justice should have appointed an independent authority neither from Government nor from Ex-Servicemen community to resolve such anomalies. The MoD/ESW has also not given any time frame to submit the report. So, the CGDA has not submitted his recommendations to implement OROP – 2018. The Hon'ble High Court may infer from this that even MoD/ESW is not keen to implement OROP – 2018 as financial outgo on account of implementation of OROP – 2018 is likely to be Rs 13,500 crores per annum. The intention of MoD/ESW also appears to collude with CGDA and not to implement OROP-2018 even after five years violating their own policy letter dated 07 Nov 2015(Exhibit A). Otherwise it beats simple logic as to how can a person be appointed as Chairman of committee who strongly advocated for non-implementation of OROP – 2018 to do justice to the genuine and reasonable demand of Ex-Servicemen for early implementation of OROP - 2018.

20. **Hostile Attitude of CGDA and Defence Accounts Department.**

There are many instances where the CGDA and his subordinate office of PCDA (Pensions) Allahabad / Prayagraj even while making out draft

letter of OROP with tables has arbitrarily fixed pension for various ranks thereby denying correct pension. Few instances how the CGDA deliberately creates anomalies to deny justice to Ex-Servicemen is narrated in succeeding paragraphs.

21. **Arbitrary Fixation of Pension not more than 33 years.** OROP tables were issued as Circular 555 of PCDA (Pensions) Allahabad / Prayagraj (Exhibit D) fixing pension of all those retired prior to 2013. The criterion was to arrive at average pension of all those who retired in the same rank with same length of service but retired in calendar year 2013. The same was explained earlier at para 17. Many senior JCOs and officers retire with more than 33 years of service. The OROP tables prepared by CGDA pegs pension at 33 years for no rhyme or reason. The pension whether the soldier has put in 33 years of service or 40 is same when the pay at the time of service for different lengths of service is not the same. It ignores long service put in by JCOs and Officers thereby denying them benefit of longer service and higher pension. There is no rationale or valid reasons or scientific explanation for limiting service to 33 years for OROP. The pension of all those who retired in calendar year 2013 was taken as basis to work out OROP tables. The tables of OROP in circular 555 should have been worked out for service beyond 33 years and till 40 years. It is a simple logic to see if one who puts in more services draws more basic pay hence his pension should

have been fixed accordingly. There were JCOs / OR and officers who put in more than 33 years of service. Their pension should have been increased by 3% per year. If one examines the tables of OROP – 2013, it was fixed in such a manner that if soldier of particular length of service was not found retired in 2013, then his pension has been arrived by reducing pension by 3% of the one who retired in calendar year 2013 with one more year service. For example, if a soldier with 20 years did not retire in calendar year 2013 his pension has been fixed for OROP by reducing the pension of soldier of same rank with 21 years' service. With this rationale, the pension of all those who retired with more than 33 years' service should have been increased by 3% per year. Those with length of service more than 33 years lost out heavily by this irrational working out OROP – 2013 tables (Exhibit D). This loss will continue till one dies. Such anomalies in OROP – 2013 run to more than 40 which deny the correct pension to Ex-Servicemen and their widows. That has forced the MoD/ESW to appoint a One Man Judicial Committee with Justice L Narasimha Reddy , former Chief Justice of Patna High Court to give his recommendations to eliminate anomalies of OROP - 2013(created deliberately by CGDA).

Enhanced Rate of Ordinary Family Pension to Widows for a period of 7 years or 67 years of age of husband had he Survived.

22. The Govt of India enhanced retirement age by two years and therefore all Central Govt employees could serve till the age of 60 years (enhanced from 58 years). Till then rule was if a Central Government employee on retirement dies before attaining age of 65 years i.e. seven years from date of his retirement, his widow will get Enhanced Rate of Ordinary Family Pension. The Enhanced Rate of Ordinary Family Pension of widow for this period is same as pension drawn by her husband while he was alive. Thereafter, her pension is reduced to 60% of husband's pension which is called Normal Rate of Ordinary Family Pension. This is to help the widow to bring up her children on the demise of her husband. Now the retirement age has been enhanced by two years, the age of retirement of husband if he dies is also increased from 65 years to 67 years. This benefit is given to all widows except widows of Defence widows by illogical and incorrect interpretation of policy on Enhanced Rate of Ordinary Family Pension by creating an artificial and unscientific cutoff date of retirement i.e. 30 May 1998. No cutoff date has been fixed by Govt of India whereas as his wont, the CGDA interprets rules as per his whims and fancies. The aim appears to deny any benefit to Armed Forces personnel and their widows.

23. As explained earlier, the Enhanced Rate is given to the widow for 7 years to enable her to bring up her children on demise of her husband. That is if husband dies at the age of 60 years, then the widow gets

Enhanced Rate of Ordinary Family Pension for seven years as husband would have reached age of 67. Or else if husband dies at the age of 64 years, then she will get Enhanced Rate for a period of three years till her husband reaches age of 67 years. Govt of India, Ministry of Finance, Department of Expenditure vide their Office Memorandum No: CPAO/IT & Tech/Clarification//13(Vol – III) / 2018-19/32 dated 28 May 2018 (Exhibit E) informed that the period of Enhanced Rate is 7 years from date of death of husband or 67 years of age of husband had he been alive whichever is earlier. The widows of Central Govt employees were getting the benefit of Enhanced Rate irrespective date of retirement of husbands but as expected of the CGDA, he has deliberately omitted important phrase ***irrespective date of retirement*** and vide Circular 630 dated 14 Feb 2020 of Principal Controller of Defence Accounts (Pensions), Prayagraj which is a subordinate office stated the benefit of Enhanced Rate shall be applicable only to those soldiers who retired after 30 May 1998.

24. It may kindly be noted that Min of Finance, Dept of Expenditure has not made any cutoff date of retirement to avail this benefit of Enhanced Rate of Ordinary Family Pension. Even widows whose husbands were Central Govt Civilian Employees retired before 30 May 1998 were enjoying higher pension due to Enhanced Rate where as CGDA arbitrarily fixed cutoff date of 30 May 1998 in respect of Defence

widows whose husbands retired before 30 May 1998. Thus such widows whose husbands retired before 30 May 1998 were not eligible for Enhanced Rate of Pension for seven years. The Defence widows lost out Enhanced Rate of Ordinary Family Pension by two years. Their period of Enhanced Rate of Ordinary Family Pension continues to be 65 years for those soldiers who retired before 30 May 1998. As is the norm, MoD/ESW asks CGDA to submit a draft government letter. It is incumbent on the part of CGDA to give proposals to get pensioners of Armed Forces same benefit which central government civilian employees get. In this case, it is clearly seen that CGDA deliberately misinterpreted Government rules as per his whims and fancies to lay down a cutoff date of 30 May 1998 and deny higher pension to widows whose husbands retired before 30 May 1998. It is prayed the Hon'ble High Court be pleased to ask CGDA as to who has given CGDA the power to make such recommendations to lay down cutoff date of retirement only to Defence widows when no such cutoff date is applicable to civilian central govt employees. The MoD /ESW simply goes by recommendation of CGDA assuming he knows all the rules and regulations of Defence pensions but it is regrettable to note that CGDA appears to be totally hostile to Armed Forces personnel. MoD/ESW goes by the draft letter of CGDA and fixed cutoff date of 30 May 1998 when Govt of India, Min of Fin, and Dept. of Expenditure has not laid down any

such cutoff date. Why penalize widows of Armed Forces personnel who in any case draw very low pensions?

23. **Pension of Major Generals Lesser Than Brigadiers w.e.f. Jan 2016.** The CGDA deliberately made the pension of Major Generals lesser than Brigadiers in the Army Pay Rules 2017 dated 03 May 2017 issued as SRO 12(E) (Exhibit F). Maj Gens are one rank higher than Brigadiers. When the MoD issued Army Pay Rules 2017, after Govt of India approved recommendations of 7th Central Pay Commission, the Maj Gens were not given benefit of notional Military Service Pay (MSP) as was done in earlier pay commissions. Since Maj Gens and Lt Gens were not eligible for MSP of Rs 15,500 pm their pension was lesser than those of Brigadiers who are given MSP. Brigadiers who retired in 2018 draw pension of Rs 1,10,300 per month for service of 36 years whereas Maj Gens who retire in the same 2018 draw pension of Rs 1,09,100 for service of 38 years. CGDA very well knew that in earlier pay commissions the basic pay was made to include notional MSP so that higher ranked Maj Gens and Lt Gens get higher pension than Brigadiers. The 7th CPC consulted Defence Accounts Department when they finalized pay and pension of Defence Services personnel w.e.f. Jan 2016. The representative of Defence Accounts Department should have pointed out that Maj Gens and Lt Gens be given notional MSP at the time of fixing basic pay or matrix pay w.e.f. Jan 2016 to avoid this

anomaly of Maj Gens getting lesser pension than Brigadiers. In spite of being informed that Maj Gens should get higher pension, the CGDA as per his wont simply disregarded knowing full well the court case may take three to five years and in this period MoD / ESW would be saving thousands of crores till courts of law direct the government to enhanced pension of Maj Gens higher than Brigadiers. The CGDA with his thousands of subordinates should himself ensure such anomalies do not take place. The aggrieved Maj Gens / Rear Admirals / Air Vice Marshals were forced to approach Hon'ble High Court of Chandigarh as per reports of newspapers to ensure their pension is not lower than those of their junior ranked officers (Brigadiers). Maj Gens serve for longer period of service but draw lesser pension. This appears to be deliberately done by CGDA to deny lawful pension of Maj Gens.

Prayer

21. Though TSEWA goes by the principle of yearly revision of pension as per the true meaning of OROP, it is constrained not to approach the Hon'ble High Court of Hyderabad as a case of IESM being adjudicated by Hon'ble Supreme Court. Therefore, as an immediate financial relief to widows of Sepoys, Naiks and Havildars, TSEWA is forced to approach Hon'ble High Court of Hyderabad to direct MoD / o implement OROP – 2018 and give arrears from Jul 2019 to all widows in one go and to others in instalments as was done in releasing arrears of OROP – 2013.

12(1)/2014/D(Pen/Pol)-Part-II
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) to 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 officers retire before attaining the age of 60 years i.e. the normal age of retirement in the Government. Considering these exceptional service conditions and in the interest of ever vigilant Defence Forces, the pensionary benefits of Ex-Servicemen have accordingly, over time, been fixed.

2. It has now 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 pensioners at periodic intervals.

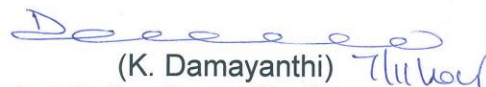
3. Salient features of the OROP are as follows:

- i. To begin with, pension of the past pensioners 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.



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- iii. Pension for those drawing above the average shall be protected.
 - iv. Arrears will be paid in four equal half yearly instalments. However, all the family pensioners including those in receipt of Special/Liberalized family pension and Gallantry award winners shall be paid arrears in one instalment.
 - v. In future, the pension would be re-fixed every 5 years.
4. Personnel who opt to get discharged 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 issues with concurrence of Finance Division of this Ministry vide their ID No. MoD (Fin/Pension) ID No.PC to10(11)/2012/Fin/Pen dated 07 November 2015.
8. Hindi version will follow.


(K. Damayanthi) *Thiruv*
Joint Secretary to the Govt. of India

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