

NOTE

1. The concept of One Rank One Pension (hereinafter referred as 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.
2. The rationale and reason behind uniform pension under OROP was that Armed Forces work under very difficult and adverse conditions, for eg. Battling under minus 40 degrees temperature in Kargil, Leh and Ladakh and sometimes in 48 degree temperature in the Rajasthan desert and this hasn't changed in decades.
3. Considering many of these factors, the Koshiyari Committee on 19.12.2011 recommended 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." (See Pg. 73 @ 79-80)
4. The true meaning therefore is that 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. It is pertinent to note that OROP is not merely about pension, but the far larger issues of justice, equity, izzat (honour) and status.
5. In fact, the recommendation of the Koshiyari Committee was approved by the Finance Minister in his interim budget speech on 17.02.2014 (See Pg. 101-102) and Ministry of Defence on 26.02.2014 (See Pg. 103), whereby The Controller General of Defence Accounts (CGDA) was directed to work out the modalities with regard to the implementation of the same (See Pg. 105). Further on 10.07.2014 the Finance Minister adopted the policy of OROP (See Pg. 107) and this was also accepted by the Minister of State, Defence on 02.12.2014 (See Pg. 109).
6. However, on 7.11.2015, the Union of India under the disguise of implementing OROP, altered the definition of OROP as being "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"** (See Pg. 110-111). It is thus apparent that instead of automatic revision of rates of pension the same revision was to take effect at periodic intervals which alters the very heart and soul of OROP. [emphasis supplied]

7. Vide letter dated 7.11.2015, (See Pg. 110-111) the salient features of OROP as recorded were –

- a) 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 from 01.07.2014.
- b) 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 with same length of service.
- c) Payment of revised pension is with effect from 01.07.2014.
- d) In future, the pension would be re-fixed every five years.

8. The basic fallacy in implementation of the definition as contemplated in the letter dated 07.11.2015 are stated as hereunder :

- i. **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 (pre 2014) getting less pension of one increment than the soldier retiring after 2014.
- ii. **Fixation of pension as mean of Min and Max pension:** Fixing pension as mean of Min and Max pension of 2013 would result different pensions for the same ranks and same length of service and the past retiree would get 1.5 increment lesser on account of such fixation.

For Example, if 8(i) and (ii) are implemented, two soldiers who have served for same length of years, holding the same rank will draw different pension. A Sepoy (Group Y) who retired prior to 31 Dec 2013 will get Rs. 6665 p.m. and another Sepoy (Group Y) who retired on and after 1 Jan 2014 would get Rs 7605 p.m. Further, on account of such implementation, a higher rank Naik soldier who retired before 31 Dec 2013 would draw a lesser pension of Rs. 7170 p.m., than a junior rank Sepoy who retired as 1 Jan 2014 as his pension would be Rs. 7605. This fact is illustrated by a tabular chart which is enclosed. (See Pg. 1, CC).

Therefore, implementation of this new definition of OROP defeats the very principle of OROP by creating a class within a class of the same officers, which in practice tantamounts to one rank different pensions. This is also contrary to the judgment by this Hon'ble Court in *Union of India v. SPS Vains, (2008) 9 SCC 125*.

Another fallacy in the new definition of OROP which detracts from the principle of OROP is:

- iii. **Pension Equalization every five years**

It is submitted that Pension equalization every five years would result in the grave disadvantage to the past retirees.

- a) For eg., under the 7th CPC, the basic pension of all pensioners is to be arrived at by multiplying basic pension as on 31 Dec 2015 by a factor of 2.57. As basic pension

of pensioners who retired prior to 31 Dec 2013-14 has not been updated to 31 Dec 2015 i.e., Rs. 7605 p.m., and, has only been fixed as mean of basic pension of 2013 i.e., Rs. 6665 p.m. Therefore, a past pensioner who retired prior to 31 Dec 2013 will get Rs. 2415 p.m. ($7605 - 6665 = 940 * 2.57 = 2415$) less than an officer who has put in same length of service and has retired in same rank. Further, this difference would carry on for five years as the pension would equalize only after five years under the new definition. Similarly, a widow of a soldier who retired prior to 2014 is getting Rs. 2548 p.m. lesser pension than the widow of a soldier who retired after 2014 and by such implementation, at least 6.5 lakh widows are being affected.

As a result during the period of 5 years before which the equalization takes place, the persons who have retired prior are put at a disadvantage as their unequalized pension shall be multiplied by 2.57 as opposed to those who have retired on and after 01.01.2014 will get benefit of a higher pension which would be multiplied by 2.57.

- b) Another instance to buttress automatic revision would be that the Government has accepted that after the 7th CPC, the basic pensions of a Colonel and Brigadier rank will be arrived at by increasing the multiplication factor from 2.57 to 2.67. **(See Pg. 10, CC)**

However, this has been denied to past pensioners stating that the same benefit would be given in 2019 after the periodic equalization under the new definition.

- c) Recently the Government issued an order delinking the requirement of 33 years of service for earning full pension for all Government employees. Earlier all pensioners pension was being pro rata reduced by the factor $X\%33$ if they had served for X years and had not completed 33 years of service. In the case of Armed Forces the Government gave a concession and a soldier had to serve for 26 years to earn full pension. For eg., If any soldier retired with a service of less than 26 years (which is the case with 95% soldiers), then his pension was reduced on a pro rata of $X\%26$. X being the number of years of service at the time of retirement. It is submitted that while the Government has given arrears on account of delinking of maximum years of service but the Government did not update basic pay of soldiers and did not bring it at par with 31 Dec 2015 before multiplying it with 2.57 to arrive at the basic pension after the 7th CPC.
- d) It is submitted that it is necessary to revise the pensions benefits automatically instead of a periodic revision of 5 years because when next pay commission recommendations will be applied past pensioners will still be kept 1.5 yrs behind because of this periodic revision. This means in 2026 past pensioners will be fixed at the basic of mean of 2023 as their pension would have been equalized in 2024 and, therefore, the past pensioners would be always be drawing lesser pension than present pensioners.

Therefore, if equalization of pension is done every five year under the new definition of OROP, the it would complete violation of the principle of OROP as past pensioners will always draw lesser pension than present pensioner with same rank and same length of service and in some cases senior rank soldier would draw lesser pension than a soldier holding a junior rank.

9. It may be noted that in many other countries of the world the Armed Forces Pay and Pensions are fixed at about 15-20% higher than their civil counterparts. In fact before independence, the Armed Forces Pay and Pensions was also fixed higher than their civil counterparts. For example, before independence the pay of the Army Chief was Rs. 1000 p.m. and of the senior most civil officer in India was Rs. 418 p.m. However, after the 6th CPC, both the officers were brought at par thus increasing the Armed Forces pay by 45 times and that of a civil officer by 108 times and accordingly their pensions have also grown proportionately.
10. In fact, a study has been conducted wherein two officers of the same age (16 years) go out to look for a job and the one who is physically stronger gets into the Army and the other in the Police Force. The officer in the Army retires at the age of about 35 or 40 years and gets benefit of only one Pay Commission or maximum two. However, the officer who joined the Police Force will retire at the age of 60 and will get benefit of four Pay Commissions. The officer in Police will draw more than 3 times the salary of an officer in Army for more than 20-25 years and will accordingly draw a higher pension than an Army officer. If both the officers earning are seen at the age of 65, the officer who retired in the Police Force will earn about eight crores the officer in the Army.
11. It is submitted that, therefore, the Union of India, has by implementation of the new definition of OROP, completely destroyed the spirit of One Rank One Pension which was 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.
12. It is submitted that implementation of this definition of OROP takes away the basis of OROP and in fact leads to "one rank different pensions". This definition would cause great injustice 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". Further, this 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 retired in 2014, until such time an annual "periodic" review is done to correct the anomaly.