DEPARTMENT OF EX-SERVICEMEN WELFARE (DESW)

STATUS ON THE RECOMMENDATIONS OF THE OF RAKSA MANTRI's COMMITTEE OF EXPERTS CONCERNING DESW

Total No. of Recommendations	:	26

(Status of 14 Recommendations)

Accepted/Implemented	:	02
Accepted in-principle	:	01
Partially accepted	:	04
Not Accepted	:	05
Under Examination/Consideration	:	02

Sr. No.	Recommendation	Status
1.	2.2.1 DENIAL OF DISABILITY BENEFITS BY INCORRECTLY BRANDING IN-SERVICE DISABILITIES (DISEASE CASES) AS "NEITHER ATTRIBUTABLE, NOR AGGRAVATED BY SERVICE	*Partially Accepted*
2.	2.2.2 RATIONALIZATION OF DISABILITY BENEFITS FOR 'NON-ATTRIBUTABLE/NON-AGGRAVATED CASES' ARISING OUT OF INJURIES/DEATHS DURING AUTHORIZED LEAVE:	*Not accepted.*
3.	2.2.3 DISABILITY BENEFITS TO VOLUNTARY RETIREES	*Accepted.*
4.	2.2.4 ILLEGAL DENIAL OF PENSION BENEFITS TO PRE-2006 RETIREE HONORARY NAIB SUBEDARS:	*Accepted.*
5.	2.2.5 LITIGATION ON DENIAL OF BENEFITS FROM 1996 TILL 2009 TO PENSIONERS (OTHER THAN COMMISSIONED OFFICERS) WHO RETIRED PRIOR TO 10-10-1997	*Under consideration.*
6.	2.2.6 REQUIREMENT OF 10 MONTHS' SERVICE IN A PARTICULAR RANK TO EARN THE PENSION OF THAT RANK	*Partially accepted.*
7.	2.2.7 CATEGORIES OF PENSION INTRODUCED BY THE 5TH CPC EXTENDED TO POST-1996 AS WELL AS PRE-1996 RETIREES ON THE CIVIL SIDE BUT INAPPROPRIATELY ONLY TO POST-1996 RETIREES ON THE MILITARY SIDE	*Not Accepted.*
8.	2.2.8 WAR INJURY PENSION TO WORLD WAR II RETIREES DISABLED IN WWII	*Not Accepted.*
9.	2.2.9 CONDONATION OF SERVICE FOR SECOND SERVICE PENSION FOR DSC PERSONNELs	Not accepted.
10	2.2.10 BROAD-BANDING OF DISABILITY PERCENTAGES FOR THE COMPUTATION OF DISABILITY ELEMENT AND WAR INJURY ELEMENT:	*Partially Accepted.*
11.	2.2.11 NON GRANT OF SERVICE ELEMENT OF DISABILITY PENSION TO DISABLED PERSONNEL WITH LESS THAN MINIMUM QUALIFYING SERVICE WHO ARE RELEASED FROM SERVICE OTHER THAN BY WAY OF INVALIDATION	*Not accepted.*
12.	2.2.12 DUAL FAMILY PENSION TO MILITARY WIDOWS WHO ARE DRAWING PENSION FROM A CONTRIBUTORY OR NON-GOVERNMENT SOURCE OR FUND OR TRUST FROM THE CIVIL SIDE, FROM THE DATE OF DEMISE OF THE MILITARY PENSIONERS, RATHER THAN 24-09-2012:	*Accepted in-principle.*
13.	2.2.13 RESERVIST PENSION TO RESERVISTS RELEASED FROM SERVICE COMPULSORILY PRIOR TO COMPLETION OF PENSIONABLE COLOUR + RESERVE SERVICE:	*Under Examination*
14.	2.2.15 NON ACCEPTANCE OF DECLARATION OF BATTLE CASUALTY AND NON-GRANT OF WAR-INJURY OR LIBERALIZED BENEFITS TO CASUALTIES IN OPERATIONAL AREAS:	*Partially Accepted.*

Sr. No.	Recommendation	Status
1.	**2.2.1 DENIAL OF DISABILITY BENEFITS BY INCORRECTLY BRANDING IN-SERVICE DISABILITIES (DISEASE CASES) AS "NEITHER ATTRIBUTABLE, NOR AGGRAVATED BY SERVICE":** *The Expert Committee recommended that:* (a) According to rules, as also endorsed by the Supreme Court, a benefit of doubt regarding 'attributability/aggravation' or 'service-connection' needs to be granted to any disability arising during service [See Paragraph 32 of ***Dharamvir Vs Union of India*** (supra), Paragraphs 15 & 16 of ***Union of India Vs Rajbir*** (supra)]. The same however can be denied when it is shown that the disability is due to a person's own gross misconduct or negligence, illegal activity, substance abuse or intoxication. The same is also a universally acceptable norm in all democracies [See Rule 105 of US Code 38 (supra)]. The same benefit is also admissible in 'death' cases due to in-service disabilities leading to entitlement of Special Family Pension for families. The said proposition is also agreeable to all stakeholders including the medical side with the apex medical body, the MSAC, also on board. (b) There is no linkage with 'peace' or 'field' service as far as attributability of disabilities is concerned and any such differentiation locally put across by the office of DGAFMS in the past or professed by any other authority is illegal, contrary to Entitlement Rules, contemptuous towards decisions of the Hon'ble Supreme Court and also against Regulations for Medical Services in the Armed Forces (See Para 33 of ***Dharamvir Singh Vs Union of India*** and **Regulation 423 of RMSAF**). So for example, if a soldier develops Heart Disease while in service, the benefit of doubt needs to be extended to 'service-connection' and the claim need not be rejected on grounds such as 'served in peace area' or 'cause unknown'. The claim can only be rejected in case of a note of disability at the time of entry into service or reasons such as *'heavy smoking'* or *'lack of dietary control leading to obesity and heart disease'* are recorded, if applicable. Otherwise, the presumption operates in favour of soldiers, as per rules and as held by the Supreme Court. (c) Broadly blaming domestic reasons for psychiatric disabilities arising during military service is against common knowledge and unethical since domestic reasons are bound to give rise to stress and also to aggravate the same in soldiers because of the very fact that due to military service they remain away from their families most of the year and cannot hence cope up with all familial requirements efficiently by virtue of their being absent from home. Putting the blame on 'domestic reasons' not only gives out a message that the organization is simply washing its hands off the responsibility towards such soldiers but also results in denial of pensionary benefits to such affected soldiers and their families. The issue already stands addressed in ***K Srinivasa Reddy Vs Union of India*** (supra) and also explained in detail in the preceding paragraphs by us. The said principles and causative factors of stress also stand endorsed by way of DO letters written to Chief Ministers by successive Raksha Mantris, which of course has also not resulted in desirable results and needs renewed efforts. (d) All concerned agencies should realize that non-grant of "attributability" or "aggravation" on flimsy grounds results in denial of pensionary benefits and consequently denial of a life of basic dignity to disabled soldiers. While it may be just a casual stroke of a pen for a medical board, it may be a question of survival for a soldier or his family. The exercise needs to be	***Partially Accepted :*** *In respect of* ***Denial of disability benefits by incorrectly branding in-service disability (Disease Cases) as "Neither Attributable, Nor Aggravated by Service"*** *case, the Government order dated 29th June 2017 has been issued from D(Pen/Legal) for implementation of orders of Hon'ble Courts/AFTs in NANA cases. Civil Appeals filed by UOI in the Hon'ble Apex Court in NANA cases have been withdrawn.* Further, DGAFMS was advised vide MoD letter dated 28.12.2015 to make it mandatory for Medical Boards/MOs to record reasoned decisions in NANA cases. DGAFMS have amended the existing forms AFMSF-16 accordingly by inserting column regarding justification of the disability/injury assessed as NANA. Pensionary benefits are granted based on the fulfillment of conditions/circumstances cited in GoI MoD letter dated 31.01.2001 with respect to attributability to or aggravation by military service. No distinction is made between posting in peace area and field. Medical Boards examine the disability of the individual on case to case basis, as per the existing provisions.

	undertaken in a common-sense oriented, practical, liberal and scientific manner. Guidelines, if any, may not operate in derogation of actual rules and need to move with the times as per global norms based on scientific studies. The lack of transparency of past amendments in the "Guide to Medical Officers (Military Pensions)" wherein the said amendments do not even carry the footnote of the study or the basis leading to the change/amendment is highly avoidable and so is the tendency not to honestly reproduce the actual rules in the said guide and eliminating important parts such as the erstwhile Para 47 of the 2002 version which has vanished without trace and without reasoning and the spirit of which needs to be restored. All authorities, including Medical Boards shall decide attributability/aggravation on a case to case basis as per law laid down by the Supreme Court based on the interpretation of actual rules and ground realities of the inherent stress and strain of military life, rather than the mathematical guidelines of the Guide to Medical Officers or locally issued instructions and DO letters written to medical boards. (e) Cases of feigning of disabilities where none exist should be dealt with strongly and medical boards should also be extra careful in examining cases where individuals have reported with a medical condition just prior to retirement or release. (f) The current approach shows that despite clear cut law laid down by the Supreme Court and also the spirit of the rules, there is resistance in accepting the settled legal position based on hyper-technical hairsplitting reasons. The concerned authorities must accept gracefully and with all humility the law laid down by the Apex Court and come to terms to the same since an approach of resistance is not only against law but also at odds with global practices for disabilities incurred during military service. (g) It is further recommended that henceforth in medical boards, all disabilities arising in service may be broadly dealt with on the anvil of the above practical realities, **all appeals pending against such disabled soldiers filed in the Supreme Court be withdrawn immediately and pending or future litigation in Courts and Tribunals related to past cases of disabled soldiers may be dealt with by Government lawyers in judicial fora on the basis of Supreme Court decisions as above, except in cases of gross misconduct, negligence, substance abuse or intoxication, on a case to case basis.**	
2.	2.2.2 RATIONALIZATION OF DISABILITY BENEFITS FOR 'NON-ATTRIBUTABLE/NON-AGGRAVATED CASES' ARISING OUT OF INJURIES/DEATHS DURING AUTHORIZED LEAVE: **The Committee recommended as following:** (a) That it may be decided that injuries or deaths during periods of authorized leave/absence (except in cases of gross negligence/ gross misconduct/ intoxication/ action inconsistent with military service) may be deemed as 'attributable to service' by issuing a clarification to the effect. It may be decided to interpret the existing rules in a beneficial manner in line with the points expressed above and also in line with the beneficial spirit in which the rules were promulgated. (b) This singular action would not only result in reducing litigation drastically but also act as a morale booster for disabled military veterans and families of personnel who may have died during periods of authorized leave, besides elevating the respect for the system in the eyes of the military community. This assumes even more importance since the protection of Section 47 of the Persons with Disabilities Act, 1995, is not available to defence personnel.	***Not Accepted :*** *Disability pension is granted under the circumstances mentioned under category B to E of MoD letter No. 1(2)/97/D(Pen-C) dated 31.01.2001. These circumstances are connected with* ***performance of military duties.*** *2 As per para 9(d) of Entitlement Rules 2008, when proceeding on leave/valid out pass from his duty station to his leave station or returning to duty from his leave station on leave/valid out pass,* ***is treated as duty.*** *Hence, death/disability occurred during this period are considered as attributable to or aggravated by service.* *2.1 Period of leave, except para 2 above, is not connected to performance to military duty, there is no case made out in favour of the proposal, to treat death/disability during leave as attributable to military service.*

	(c) Clarification to the above effect may be issued to all concerned for future cases. **All appeals in the Hon'ble Supreme Court on the said subject are recommended to be withdrawn and all pending litigation in Courts/Tribunals or future litigation for similar past cases that may arise, may be directed to be conceded in favour of claimants except in cases where the soldiers have themselves been found blameworthy for the disability.**	*3. CGDA office to whom the matter was referred, has furnished following comments:-* *"As per extent provisions, attributability/aggravation of JCOs/ORs and ICOs is decided by the O.I/C Records and Service Hqrs respectively on the basis of recommendation of Medical Board and circumstances of death/injury. Para 4.1 of Govt. MoD letter 1(2)/97/D(Pen-C) dated 31.01.2001 has made provisions for grant of pensionary benefits based on the circumstances of death/disability. It is very evident that attributable and aggravation are principle factors in categorization of disability.* *4. In view of the above, consideration of pensionary awards in cases which are neither attributable to nor aggravated by military service is not in consonance with the fundamental principles of granting disability pension. Further it is also mentioned that as per Para-9 of Entitlement Rule-2008* ***only joining to and from leave is treated as duty not the entire leave period."*** *5. Keeping in view of CGDA's views and para 2 above, the proposal for grant of disability pension for disability arising out of injuries occurs during leave period does not have merit to keep at par with the personnel whose injury/disability is attributable to or aggravated by military service.* ***The Hon'ble Supreme Court vide its order dated 20.09.2019 in Civil Appeal No. 4981 of 2012 filed by UoI & ors Vs Dharambir Singh has also held that*** *"the mere fact of a person being on "duty" or otherwise, at the place of posting or on leave, is not the sole criteria for deciding attributability of disability/death. There has to be a relevant and reasonable causal connection, howsoever remote, between the incident resulting in such disability/death and military service for it to be attributable. An accident or injury suffered by a member of the Armed Forces must have some casual connection with military service and at least should arise from such activity of the member of the force as he is expected to maintain or do in his day-to-day life as a member of the force.*
3.	**2.2.3 DISABILITY BENEFITS TO VOLUNTARY RETIREES : It is hence recommended that disability pension may not be denied to pre-2006 voluntary retirees with the following in the backdrop:** a) The denial itself was based on a false foundation of 'double benefit' as also incorrectly projected to the pay commission, but in reality there was no such availability of a 'double benefit' as explained above and hence the reason for such prohibition itself is invalid. A disability or a war injury does not cease on voluntary retirement and even otherwise the cut-off date now stands struck down and the striking down has been upheld by the Hon'ble Supreme Court. It is even otherwise discriminatory The Department of Pension and Pensioners' Welfare has extended the benefit of Constant Attendance Allowance (CAA) to pre-2006	***Accepted :*** *Policy has been revised and Government order for grant of Disability Element to Armed Forces Personnel who were retained in service despite disability attributable to or aggravated by Military Service and subsequently proceeded on premature/voluntary retirement prior to 1.1.2006, has been issued vide MoD letter No. 16(05)/2008/D(Pen/Pol) dated 19.5.2017.*

	as well as post-2006 eligible civilian disabled retirees but with financial effect from 01-01-2006, hence it is not logical for the DESW to alone deny benefits based on such artificial cut-off dates. The pain and agony caused by an injury prior to 2006 or after 2006 is the same. (b) **It is recommended that till the time the policy is comprehensively revised, all appeals filed in the Supreme Court on the said point by the MoD may be withdrawn, no fresh appeals be filed and pending litigation in various Tribunals be conceded on a case to case basis.**	
4.	2.2.4 ILLEGAL DENIAL OF PENSION BENEFITS TO PRE-2006 RETIREE HONORARY NAIB SUBEDARS: **The committee recommends the following to tackle this issue once and for all since it has resulted in massive litigation which shall soon get further compounded due to faulty policies:** (a) Pensions of Pre and Post 2006 Honorary Naib Subedars be calculated using the same base of the new scale of Honorary Naib Subedar/Naib Subedar introduced after the 6th CPC as directed by the AFT and upheld by the Supreme Court. This must be the only category of employees wherein pensions are being calculated on different scales- those of pre-2006 Honorary Naib Subedars are being calculated based on the scale of a Havildar while those of post-2006 retirees are being calculated based on the scale of a Naib Subedar. To take an example, when a new scale was introduced in the year 2009 for Additional Secretaries to Govt of India and Lt Gens of the Army over and above the recommendations of the 6th CPC, the pensions of all pre-2006 retirees of the grade of Additional Secretary (HAG) as well as Lt Gens were re-calculated on the basis of the newly introduced scale, which system is a standard practice since the 5th CPC, hence there was no occasion for treating the rank of Honorary Naib Subedar differently. In any case, any personal opinion to the contrary is irrelevant. (b) Since the pay for the purposes of fixation of pension for Honorary Naib Subedars and Naib Subedars has been equated by the Govt for post-2006 retirees and the distinction between post-2006 and pre-2006 has been struck down and the striking down has been upheld by the Hon'ble Supreme Court, the pension of pre-2006 Honorary Naib Subedars vis-a-vis pre-2006 Regular Naib Subedars may also be equated since a wide disparity has been perpetrated between the two which should have been taken care of by the establishment itself since the said issue also stands covered in spirit by the *ibid* decisions. The system as followed for Honorary Naiks and Honorary Havildars can be followed for Honorary Naib Subedars too, that is, pension of Honorary Naib Subedars can be fixed one rupee (Re 1/-) lower than Regular Naib Subedars as per the dispensation in vogue for Honorary Naiks and Honorary Havildars. Any discrimination limited to the rank of Honorary Naib Subedar is hence highly incongruous.	***Accepted :*** *6th CPC vide Para 5.1.62 has recommended 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 Hony rank of Naib Subedar will cease to be payable.* The provisions of the MoD letter dated 12.06.2009 were applicable to those HNS who retired/discharged from service on or after 01.01.2006. Hon'ble AFT, Chandigarh vide its order dated 27.10.2017 in OA No. 2755/2013 filed by Ex. HNS Hoshiar Singh held the following: *(a) No res judicata, as provided in Order 2, Rule 2 of the Code of Civil Procedure would be applicable in the facts and circumstances of the present case.* (b) *As inter se* ***parity between the Hony. Nb. Subedar and Nb. Subedar could neither be established, nor is acceptable to this Tribunal. The fundamental difference between the said two categories has always remained and shall remain so.*** *However, the limited parity, conferred on acceptance of the recommendations of the Sixth Pay Commission vide GoI Circular dated 12.06.2009 to the following extent " ...... that Honoray rank of Nb Subedar granted to Havildar will be notionally considered as a promotion to the higher grade of Nb. 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" is required to be accepted and implemented in letter and spirit of the judgment of this Tribunal in Virender Singh's case (supra), as upheld by the Hon'ble Supreme Court.* *(c) The pension of the applicant and all other*

		similarly situated persons, fixed w.e.f. 01.01.2006 ***at Rs. 7750/-*** *in pursuance of the above judgment, is not disputed and need not be gone into.* *(d) On the basis of the conclusion at (b) & (c) above, the pension of the Hony. Nb. Subedar needs to be re-calculated based on the principles of determining the highest of notional pay in the revised pay structure corresponding to maximum of pay scales of 5th CPC across the three Services equivalent to the rank and group in which pensioned. In essence, we hold the applicant and similarly situated Hony. Nb. Subedar* ***entitled to minimum level of the pension*** *available to regular Nb. Subedar. It is needless to state that further improvement/enhancement, if any, as and when available to regular Nb. Subedar in grant of pension shall also be available to the applicant and other similarly situated Hony. Nb. Subedar, subject to what is stated above. .* The above order dated 27.10.2017 of the Hon'ble AFT, Chandigarh has been implemented vide MoD order No. 1(13)/2016/D(Pen/Pol) dated 21.02.2020.
5.	**2.2.5 LITIGATION ON DENIAL OF BENEFITS FROM 1996 TILL 2009 TO PENSIONERS (OTHER THAN COMMISSIONED OFFICERS) WHO RETIRED PRIOR TO 10-10-1997:** **The Committee recommends the following on the above subject:** (a) The fresh scales introduced with effect from 10-10-1997 were bound to take effect from 01-01-1996 as per the gazette notification issued by the Govt of India which had the due approval of the Cabinet **(Para 1(b) and 4 of Annexure-15).** Any later executive instructions restricting the effect from 10-10-1997 onwards is null and void in the face of the gazette notification and hence all litigation initiated on the said point (popularly known as *Jai Narayan Jakhar's* case) is unethical and needs to be withdrawn, whether it comprises Review Applications in the AFT or in the High Courts or appeals in the Supreme Court since the issue specifically has been upheld by the Supreme Court in *Jakhar and Bishnoi* cases (supra). (b) The above view is also fortified by various decisions of the Supreme Court in which it has been held that once an anomaly is removed, it needs to be removed from the date of its inception with full arrears from backdate and not an artificial future cut-off date. Prominent amongst such decisions are ***KT Veerappa Vs State of Karnataka 2006 (9) SCC 406,*** **Civil Appeal 1123/2015** ***State of Rajasthan Vs Mahendra Nath Sharma*** decided on 01-07-2015 and **Civil Appeal 8875/2011** ***Union of India Vs Sqn Ldr Vinod Kumar Jain*** decided on 17-03-2015. (c) That even otherwise, whenever such anomaly has been removed from the scales of other classes of employees, including civilians and commissioned officers, the said rectification in pension or pay and allowances has always taken effect from the	***Under Examination :*** *The matter is being examined in consultation with CGDA, MoD(Fin/Pen), Department of Expenditure, Department of Pension & Pensioners' Welfare and Department of Legal Affairs.*

	date of implementation of recommendations of the pay commission, and not any future cut-off date. For example, when the new pay grade of Rs 67000-79000 was implemented for Additional Secretaries to Govt of India and Lt Gens in 2009, it was implemented with effect from 01-01-2006 for pay and allowances purposes of serving officers and for pension calculation purposes for pre-2006 retirees whose pensions were now based on the freshly introduced scales of 2009 with financial effect from 01-01-2006. Similar is the case for all other ranks and grades. Hence, it makes no logic to treat lower ranks of the three defence services differently. Even the arrears in the "rank pay" case, after the decision of the Supreme Court, were granted to all officers recently with effect from 01-01-1986 with interest. (d) **Though we are not recommending promulgation of fresh policy in this regard since we are now at the cusp of the next pay commission, the litigation in the form of appeals and reviews pending before the Supreme Court, High Court and various Benches of AFT may be immediately withdrawn by the Ministry of Defence/Services HQ since it is not only unethical but also a burden on the exchequer as well as the litigants since the issue stands long settled by the Supreme Court and is covered by the Government's own gazette notification. Pending/future cases be conceded on same lines by agreeing to grant of benefits from 01-01-1996 till 30-06-2009 without any restriction of arrears in light of the Gazette notification on the subject.**	
6.	2.2.6 REQUIREMENT OF 10 MONTHS' SERVICE IN A PARTICULAR RANK TO EARN THE PENSION OF THAT RANK: **Since this issue has led to, and is leading to multiple litigation in Courts, the Committee recommends that no appeals be filed before the Supreme Court on the 10 months' stipulation since not only is the issue covered by the Constitution Bench decision of the Supreme Court in *DS Nakara's* case but also the stand taken against the proposition defies all logic since such personnel are being forced to accept pension of a lower rank than the one in which they had retired and that too by impishly reintroducing a negative stipulation without the sanction of the Cabinet, which anyway stands abrogated with effect from 01-01-2006. In future, it may be taken care to grant pensions based on the rank last held, as is the case on the civil side, and not based on the last rank held for 10 months.**	***Partially Accepted:*** *RM's Committee of Expert have recommended following:-* *(i) No appeals be filed before the Supreme Court on 10 month stipulation;* *(ii) In Future, it may be taken care to grant pension based on the rank last held, as is the case on the civil side and not based on the last rank held for 10 months.* *2. As regards, recommendation at (i), it is brought out that the stipulation of serving in the rank for minimum 10 months in respect of PBORs is along with the provisions of fixing the pension at the maximum of the scale,* ***even if no individual actually reaches at the maximum.*** *If the individual has equal to or more than 10 months service in particular rank, his pension is calculated on the* ***maximum of the scale*** *for that rank, only in case if he has less than 10 months service in that rank, his pension is calculated on the* ***maximum of the scale*** *of previous rank.. Hence doing away the stipulations of 10 months residency period in the rank while maintaining the above provision* ***(maximum of the scale basis)*** *is not logical as it would grant dual benefit on the same accord and hence this part of recommendations does not hold merit.* *2.1. In Civil Side, the pension during 5th CPC regime was paid at the rate 50% of the average emoluments drawn during the last 10 months of*

		service (not on the maximum of the pay scale of the rank/post held at the time of retirement). If an individual had not completed 10 months on a particular post, for remaining period, pay of previous post would be taken for calculation of average emoluments. *2.2. Regarding the second part of recommendation, it is stated that post 2006 retirees are being given pension which is 50% of the last emoluments drawn and hence this is already being implemented.* *3. MoD(Fin/Pen) has not supported the recommendations of the Raksha Mantri's Committee of Experts regarding delinking of the stipulation of 10 months of service in the rank for earning pension of that rank in respect of pre-2006 pensioners and concurred the views of this Department.*
7.	**2.2.7 CATEGORIES OF PENSION INTRODUCED BY THE 5TH CPC EXTENDED TO POST-1996 AS WELL AS PRE-1996 RETIREES ON THE CIVIL SIDE BUT INAPPROPRIATELY ONLY TO POST-1996 RETIREES ON THE MILITARY SIDE:** **The committee hence recommends that the provisions of the letter dated 11-09-2001 (Annexure-20) issued by the DoPPW on the civil side whereby the benefits of the new categories of enhanced disability/liberalized pension and family pension for post-1996 retirees were extended to pre-1996 retirees also may be extended to military pensioners *mutatis mutandis* by extending the principles of MoD letter dated 31-01-2001 (issued by MoD only for post-1996 retirees) to pre-1996 retirees on the lines of the DoPPW letter dated 11-09-2001. This issue has also been deliberated and adjudicated upon by the Hon'ble Supreme Court already in *KJS Buttar's* case (supra). It would be discriminatory to treat civilian and defence retirees differently when the Categories mentioned in all of the letters above emanate from a common recommendation of the same pay commission.**	***Not Accepted :*** *The committee has recommended to extend the provisions made in MoD letter dated 31.1.2001 issued on the recommendation of 5th CPC to pre-1996 pensioners as has been made by DoP&PW vide their OM No. 45/22/97-P&PW(C) dated 11.9.2001.* *CGDA has offered following comments:-* *a) To extend the provisions of the GoI, MoD letter dated 31st January, 2001 of pre-01.01.1996 retirees would create further complexities as the pension of all kinds i.e service, disability, war injury and various family pensionary awards would required to be examined manually to decide the amended pensionary awards in accordance with provisions laid down in the said Govt. Letter. Therefore, it is opined that old cases may not be reopened.* *b) Broad Banding benefit provided to post-1996 retirees vide MoD letter No. 1(2)/97/D(Pen-C) dated 31.01.2001 has already been extended to pre -1996 retirees vide GoI, MoD letter No. 12(16)/2009(Pen/Pol) dated 15.09.2014. Further, by implementation of OROP, the distinction in pension of pensioners of different vintage has largely been addressed. Reopening of the issue will lead to review in huge number of cases, re-categorizing different category of pensioners, verification by manual intervention, finding out circumstances of death for different type of causalities by manual verification inter-alia. Hence, this office is of the view, this would lead to multiplication of problems instead of sorting.*

		In order to improve the pension of PBORs, concept of weightage was introduced in 3rd CPC. 5 years weightage was allowed to PBORs in addition to their Qualifying Service(QS) so that they could get a higher pension. This was later enhanced by the Group of Minister (GoM) 2005 to 6, 8 and 10 to the three lowest group of PBORs i.e Sepoy, Naik and Havildar. This has again been enhanced by Cabinet Secretary Committee (CSC) 2012 to 8, 10 and 12 to the same group of PBORs. This enabled the PBORs to reach the maximum service of about 32 to 33 years of service, thus earning maximum pension. Another benefit given to PBORs is that their pension was always ***calculated on the maximum of the pay scale of the rank held*** *at the time of discharge, which no individual ever actually reaches. The subsequent revision of pension for pre-2006 retirees viz, CSC 2009, CSC 2012 has been done on that maximum of the pay scale.* *In addition to the above, Govt. had implemented* ***One Rank One Pension (OROP)*** *Scheme for Defence Forces personnel. On implementation of OROP, the benefits rendered by 2013 retirees are passed onto past-retirees as their pension is being calculated 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 under OROP scheme. No such OROP scheme exists in Civil Side, so far. Defence Pension may not be equated with Civil Pension. The number of disability pensioners is very large in comparison to Civil side and as stated by the CGDA the records in regard to mode of retirement/discharge/disability is required to be checked/verified manually on case to case basis which might not be available at their end.* *In view of the above, the recommendation was not found feasible for implementation.*
8.	**2.2.8 WAR INJURY PENSION TO WORLD WAR II RETIREES DISABLED IN WWII:** **The Committee notes with concern such discrimination and that too with a class of pensioners/family pensioners who stood against all odds for a war against humanity and that too at a time when fighting in foreign lands was taboo and who are now numerically placed on a sharp diminishing scale. It is hence strongly recommended that immediate measures be initiated to release war injury pension and liberalized family pension with financial effect from 01-01-1996 respectively to all those disabled retirees of WWII who are in receipt of disability pension and widows of personnel deceased in WWII who are in receipt of family pension.**	***Not Accepted :*** *The following facts with regard to the issues for grant of War Injury Pension to World War-II disabled veteran, involved merits considerations:-* *(i) World War-II took place 70 years back, during 1939-1945. The number of live pensioners may be very very rare. The retention period of relevant record of the individuals which will require ascertaining the disability assessed during WW-II may be over. There may be a rare chance of retrieving the required information/data for decision of policy.* *(ii) The concept of War Injury Pay has been introduced in 1972 for Defence Forces Personnel. War Injury Pay is known as War Injury Pension from 4th CPC.* *(iii) Opening of the case for examination the proposal is just like opening a Pandora's box*

		which will lead to open WW-I and other earlier cases which have no merit and factual documentary proof/data. *The comments of CGDA office were also received on the proposal which are reproduced as under:-* *"(a) GoI, MoD vide letter No. 200847/Pen-C/71 dated 24th Feb, 1972, introduced liberalized pensionary awards for war widows and war-disabled servicemen. These provisions were made available for disablement of personnel on account of injuries sustained or personnel killed in action in operations against Pakistan commencing form 3rd Dec, 1971 besides a few more categories mentioned in the letter.* *(b) It may be seen that casualties of WW-II not covered in the above Government letter. Further, pension documents of Armed Forces pensioners were migrated to PCDA (P) Allahabad from CMA (P), Lahore during the year 1947-48. This office is not in a position to identify' the cases related to World War - II.* *In a reply to Parliament Question, it was replied that no separate database has been maintained for WW-II veterans. Hence it would be difficult to work out any pension for them in absence of data.* *However, taking into the fact that the number of such veterans will be very small, some other assistance (financial) in addition to the existing one was considered for needy veterans to lead a decent life which they deserve.* ***Accordingly, RSBs/ZSBs were requested to ascertain the same in their area. Once the details are known, further action can be planned.*** *KSB vide their letter dated 24.11.2017 has provided the details of disabled pensioners/family pensioners retirees from Defence military budget in respect of WW-II veterans as received from various States/UTs. It has been observed that many States/UTs have not responded and KSB have stated that reminders being made to non-responsive States to forward the detail and same would be forwarded on receipt. However, the details from the non-responsive States/UTs have not been provided by KSB so far. Further, KSB vide their letter dated 5.2.2018 have intimated that the data/details of WW-II is not maintained/available with them.* *DS(Res.II) informed that the WW-II veterans/widows are provided financial assistance by States / UTs. After the direction of the Standing Committee on Defence (16th Lok Sabha), all the States/UTs were requested by the then Secretary (ESW) in March 2015 and Sept 2016 to enhance the amount of financial assistance given to WW-II veterans.* ***World War-II veterans are eligible for***

		disability pension/mustering out pension as per the Pension Rules applicable during the period. The concept of War Injury Pay was introduced in 1972. The recommendation for grant of War Injury Pension was examined in consultation with CGDA and not found feasible for implementation. Majority of States/UTs have responded positively.
9.	2.2.9 CONDONATION OF SERVICE FOR SECOND SERVICE PENSION FOR DSC PERSONNEL: **The Committee recommends the following on the issue:** (a) The Committee notes with concern that such a stand denying condonation of service for second pension is not only obdurate but also contemptuous since once an issue is decided by a Constitutional Court and accepted as such for many personnel and also the impugned letter read down or struck down by judicial interpretation, the DESW could not have issued another similar letter in 2012 with similar contentions to revalidate or negatively resuscitate a judicially settled issue. If such a stand were to be accepted, then even after impugned letters or provisions are read down, interpreted or struck down, various departments of the Government would simply issue them again with a different date to revalidate their actions, something which is not acceptable in a democracy which has the rule of law as its hallmark. (b) Even otherwise the reasons to deny such condonation cannot be invented when no such prohibition or reasons exist in the master regulations or letters of the Government, moreover when the second service by those DSC personnel who have not opted to add their former service in their DSC service is totally separate and divorced from their earlier service with no connection whatsoever with their former service or financial situation. Defence personnel who are joining the DSC cannot be placed at a disadvantage than their peers joining civil Government organisations who become eligible for pension after 10 years. (c) All appeals filed on the subject or in the pipeline may be withdrawn. The fresh letter issued by the DESW in the year 2012 merely reiterating the earlier letter of 1962 hence also needs to be withdrawn or directed to be ignored and *status quo ante* as accepted by judgements (supra) needs to be accepted since now it is the law of the land. Matters be conceded on a case to case basis, as was the practice earlier.	**Not Accepted :** As per Regulation 125 of Pension Regulations for the Army 1961, except in the case of (a) an individual who discharged at his own request or (b) an individual who is eligible for special pension or gratuity under regulation 164 or (c) an individual who is invalided out with less than 15 years of service, deficiency in service for eligibility to service pension or reservist pension or gratuity in lieu may be condoned by competent authority up to six months in each case. 2. As per clarification issued vide Army Hqrs letter No. 83370/AG/PS(a) dated 7th December, 1962 and 65745/P/DSC-2 dated 3rd December, 1992, the condonation of deficiency under Rule 125 of Pension Regulations for Army 1961 will not be allowed for grant of second service pension. Condonation of deficiency, under Rule 125 of Pension Regulations for Army 1961, up to six months by Officer-in-Charge Records and up to one year are being done by Adjutant General (AG). 3. The issue was earlier considered in view of few AFT judgements wherein directions were given for condonation of deficiency in service for the purpose of granting 2nd service pension. It was decided in a meeting held between Secretary (ESW) and AG on 06.02.2012 that the position would be examined and clarified. 4. CGDA to whom the matter was referred for their views/comments, had stated that condonation of deficiency in Q.S for grant of service pension is to be granted only on merit and in deserving cases to make individual eligible for at least one pension, however in the instant case, **the individual is already drawing pension from his 1st service therefore grant of condonation for deficiency of service for 2nd spell has no merit.** CGDA has further stated that, it is also pointed out that prior to 6th CPC, **element of weightage was not allowed to DSC personnel for grant of 2nd pension on the analogy that no dual benefit shall be allowed on same accord hence on similar lines the proposal for condonation deficiency in service for grant of 2nd service pension in respect of DSC personnel has no merit.**

		5. *It was conveyed to Service Hqrs with the approval of Secretary(ESW) vide letter dated 23.04.2012 that the intention behind grant of condonation for deficiency of service for grant of service pension is that the individual must not be left high & dry but should be made eligible for at least one pension. On the principle that no dual benefit shall be allowed on same accord, it was clarified that no condonation shall be allowed for grant of 2nd service pension. The matter regarding condonation of shortfall in service towards second service pension in respect of Defence Security Corps (DSC) personnel was examined in DESW in consultation with CGDA and MoD (Fin/Pen) and with the approval of the then Hon'ble Raksha Mantri* Govt. letter No. 14(2)/2011)/D(Pen/Pol) dated 20.07.2017 has been issued vide which it has been clarified that condonation of deficiency in service is not applicable in the case of second service pension for the service rendered by personnel in DSC. Hon'ble Supreme Court (SC) in its recent orders dated 27.8.2018 in Civil Appeal No. 27934/2018 filed in the matter of Smt. Veda Devi Vs UoI & Ors. have dismissed the SLP on the ground of delay. The Hon'ble Supreme Court vide its order dated 27.8.2018 in Civil Appeal No. 27100/2018 in the matter of Ex. Naik Mohanan T have also allowed such condonaton. However, both the orders are case specific and condonation has been allowed to the two individuals who approached the courts. The Hon'ble Supreme Court has not struck down the DESW said letter and has kept the law point open.
10	**2.2.10 BROAD-BANDING OF DISABILITY PERCENTAGES FOR THE COMPUTATION OF DISABILITY ELEMENT AND WAR INJURY ELEMENT:** **The Committee recommends that the principle of broad banding of disability percentages, irrespective of the manner of exit, be extended to all disability pensioners of the defence services as already settled by the Hon'ble Three Judge Bench of the Supreme Court in Civil Appeal 418/2012 *Union of India Vs Ram Avtar* decided on 10-12-2014, with financial effect from 01-01-1996 or date of release from service or date of grant of disability/war injury pension, whichever is later. Till the time such policy is issued, Government lawyers should be strictly instructed to concede such cases in Courts since continuance of defence of such cases in view of the settled position is not only contemptuous but is also resulting to a loss of both the exchequer/Union of India as well as litigants. Appeals, if pending, may be immediately withdrawn.**	***Partially Accepted:*** *Consequent upon the acceptance of the recommendations of the 5th CPC, a policy letter dated 31.01.2001 was issued by the Govt. admitting Broad-banding of Disability in respect of invalidated out Armed Forces Personnel w.e.f. 01.01.1996. 5th CPC had mentioned that where it is not feasible to retain disabled personnel and are boarded out of service due to disability attributable to or aggravated by service be granted benefit of broad banding.* *7th CPC vide Recommendation para 10.2.57, has recommended* ***the broad banding of disability for all personnel retiring with disability, including premature cases/voluntary retirement cases for disability greater than 20%.*** *Govt. letter for implementation of 7th CPC recommendation in the matter has been issued on 4.9.2017 & 5.9.2017.* *The matter regarding extending the benefits of broad-banding of percentage of disability with financial effect w.e.f. 01.01.1996 or date of release*

		from service or date of grant of disability/war injury pension whichever is later in respect of other than invalided out cases, is subjudice in Hon'ble Supreme Court.
11.	**2.2.11 NON GRANT OF SERVICE ELEMENT OF DISABILITY PENSION TO DISABLED PERSONNEL WITH LESS THAN MINIMUM QUALIFYING SERVICE WHO ARE RELEASED FROM SERVICE OTHER THAN BY WAY OF INVALIDATION:** **The Committee, in view of the foregoing, recommends that Service Element be released to all those individuals who are released with an attributable/aggravated disability, irrespective of the manner of exit/release from service since there is no minimum qualifying service required for earning this element. All appeals filed on the subject may be immediately withdrawn.**	***Not Accepted:*** The issue was referred to office of CGDA for their comments. Comments received from CGDA vide their U.O dated 28.4.2017 reproduced as below:-. (i). As per Special Army Instruction 4/5/74, w.e.f 01.01.1973, there is no minimum service criterion for grant of service element of disability pension in invalided out cases. This benefit has been extended to Pre-1973 invalided out pensioners vide GoI, MoD letter No. 12(28)/2010-D(Pen/Pol) dated 10.02.2014 circulated vide PCDA (P) Circular No. 527 dated 25.04.2014. However, in cases, where individual has been retained in service even after disability attributable to or aggravated by military service and subsequently discharged after fulfillment of term of engagement or at own request, 15 years of qualifying service is mandatory to earn service pension. (ii). In case, where an individual is invalided out on medical ground being neither attributable to nor aggravated by military service, invalid pension is payable, provided, he has rendered 10 years or more but less than 15 years qualifying service. In the event of rendering 05 years or more but less than 10 years service, invalid gratuity is admissible. CGDA office is of the view that if an individual is retained on the basis of the recommendations of the Medical Board and subsequently opts for discharge from service, it may not be treated as invalided out from service and should be treated as discharged at own request. (iii). Further, provisions of invalid pension/gratuity also exist in civil side, where invalid pension is granted after rendering 10 years qualifying service. In the event of relaxation in minimum qualifying service i.e 15 years in case of service pension and 10 years in case of invalid pension in respect of Armed Forces personnel, demand may also arise in civil side for invalid pension in less than 10 yrs qualifying service cases. (iv). As the provisions for minimum qualifying service to earn pensionary benefits have already been made (as laid down in respective Pension Regulations for the Army, Navy & Air Force as well as CCS Pension Rules for civilians) with due consideration,

therefore, this office is of the view that minimum criteria of qualifying service, to earn service pension/invalid pension should not be shaken. Department of Pension & Pensioners' Welfare may also be consulted in the matter since issue to civil servants/CPMF(Central Para Military Forces) pensioners also.

2. The Comments of **DoP&PW** to whom the matter was referred are as under:

(i) In Civil side, the provisions in CS(EOP) Rules are very clear. As per Rule 9 of CCS(EOP) Rules, if a Government servant is disabled due to service and if the disability is attributable to Government service, he shall be paid either disability pension or lump sum compensation.

> Sub-Rule(2) of Rule 9 provides that if the Govt. Servant is boarded out of Government Service on account of his disablement, he shall be paid disability pension in accordance with the Rule.
>
> Sub-Rule(3) provides that if the Government servant is retained in service in spite of such disablement, he shall be paid a compensation in lump sum (in lieu of the disability pension) on the basis of disability pension admissible to him by arriving at the capitalized value of such disability pension.

(ii) Therefore, in civil side, disability pension shall be paid only on boarding out cases. If the Government servant is retained in service in spite of that disability, he shall be paid only lump sum compensation. No option will be asked and there is no provision for any option. Only lump sum compensation will be paid in such cases. On his retirement, he shall be paid superannuation pension only as per CCS(Pension) Rules. If he opted for voluntary retirement as per CCS(Pension) Rules, then also, he shall be paid only normal pension as per CCS(Pension) Rules. It appears that there is difference in rules in Defence side on retained cases. In all boarding out cases and payment of disability pension, as per EOP rules, no minimum service is required for earning service element.

(iii) Under CCS(Pension) Rules, minimum 10 years of service is required for earning pension. A civil servant can apply for voluntary retirement after 20 years of qualifying service and entitled for pension. Under Rule 38 of CCS(Pension) Rules, Invalid pension is also available for any mental or bodily infirmity, which permanently incapacitates a Government servant for the service.

		3. Regulation 50 of PRA, 1961 bars payment of Disability pension to Defence Forces personnel who sought voluntary retirement. On the recommendation of 6th CPC, MoD letter dated 29.09.2009 was issued under which Defence Forces Personnel who were retained in service despite disability (due to attributable to or aggravated by service) & foregone lump-sum compensation were allowed disability element/war injury element on their retirement whether voluntary or otherwise in addition to **retiring/ service pension or gratuity** as per their length of qualifying service. This provision was made for post 2006 retiree. Vide MoD order dated 19th May 2017, this provision has been extended for pre-2006 retirees also. 4. As the Defence Force Personnel who are invalided out (only) from service due to disability attributable to or aggravated by service are entitled for service element of disability pension & there is no condition of minimum qualifying service required for service element of disability pension in invalided out cases. In view of CGDA comments there is no case for extending the benefit of granting service element of disability pension in other than invalided out cases viz. the personnel who seek voluntary retirement/ discharge at own request and found some disability at the time of discharge/PMR/VR which is assessed as attributable to or aggravated by Military service. It may also be seen from DoP&PW comments that there is no provision of disability pension in other than boarded out cases. 5. Since the CGDA does not support the proposal for grant of service element of disability pension in other than invalided out cases and no such provision exist in Civil side, the demand cannot be equated at par with those Defence Forces Personnel who are invalided out with disability attributable to or aggravated by Military service. Further, this will encourage the tendency of proceeding on voluntary retirement/discharge at own request by the Defence Forces personnel and the Defence Forces, thereby, will lose trained and experienced defence personnel which also cause extra financial burden to the exchequer. 6. In view of above discussion, there appears to be no case for consideration of the proposal.
12.	**2.2.12 DUAL FAMILY PENSION TO MILITARY WIDOWS WHO ARE DRAWING PENSION FROM A CONTRIBUTORY OR NON-GOVERNMENT SOURCE OR FUND OR TRUST FROM THE CIVIL SIDE, FROM THE DATE OF DEMISE OF THE MILITARY PENSIONERS, RATHER THAN 24-09-2012:**	**Accepted in principle :** Raksha Mantri's Committee of Experts vide Para 2.2.12 recommends that while the benefits of double family pension may be restricted w.e.f 24.9.2012 in terms of MoD letter dated

	The Committee hence recommends that while the benefits of double family pension may be restricted w.e.f 24-09-2012 in terms of GoI/MoD Letter dated 17-01-2013 for family pensioners earning their second pension from a purely Government source, the same may be released from the date of death of the pensioner in all cases where the pension from the civil side is from a non-government fund or contributory fund or any other pension trust or source as already interpreted by Courts and Tribunals and upheld as such by the Supreme Court in *Leela's* case and *Veena Pant's* case (supra). All such cases pending before Courts or arising in the future may be directed to be conceded and pending appeals withdrawn.	17.1.2013 for family pensioners earning their second pension from a purely Government source, the same may be released from the date of death of the pensioners in all cases **where the pension from the civil side is from non-government fund or contributory fund or any other pension trust or source** as already interpreted by Courts and Tribunals and upheld as such by the Supreme Court in Leela's case and Veena Pant's case (supra). All such pending before Court or arising in the future may be directed to be conceded and pending appeals withdrawn. 2. Dual family pension has been implemented on the recommendation of Cabinet Secretariat Committee 2012. As per para 4 of MoD letter dated 17.01.2013 this provision shall be applicable to the Armed Forces Personnel who got discharged/retired/invalided out from service with effect from 24.9.2012 or thereafter. Benefit of these provisions shall also be allowed in past cases however the financial benefit shall be granted from 24.9.2012. 3. CGDA to whom the matter was referred, vide their letter dated 6.7.2017 intimated that prior to issue of GOI MoD letter No. 1(5)/2010-D(Pen/policy) dated 17.1.2013 allowing military family pension in addition to civil family pension to families of Armed Forces personnel re-employed in Civil Deptts/PSUs/Autonomous bodies/local funds, families of Armed Forces personnel re-employed in organizations covered under Employee Pension Scheme(EPS)-1995 and Family Pension Scheme(FPS) 1971 were eligible for defence pension since 27.07.2001 vide MoD letter No. 2/CC/B/D(Pension/Policy)/2001 dated 28.8.2001. No other non-Government fund or contributory fund or any other pension trust or source was notified in the ibid letter or in any subsequent orders. Hence any comments on the issue can only be offered after non-Government source or contributory fund or any other pension trust or sources are identified by Ministry. 4. Accordingly, three Services were requested to identify the non-government source or contributory fund or any other pension trust or pension source from which first family pension is being drawn by Military Widows as referred in para 2.2.12 of the recommendations. Service Hqrs. have intimated that the requisite information is not available with them. 5. Vide MoD letter dated 28.8.2001, DoP&PW notification No. 1/19/96/P&PW (E) dated 27.7.2001 was made applicable mutatis mutandis to Armed Forces Personnel who were re-employed in the Organizations/

		Establishments where EPS 1995 and FPS 1971 are in force. In view of this the file was referred to DoP&PW with a request to intimate the non-Government source or contributory fund or any other pension trust or sources. 6. DoP&PW have intimated that *as per sub-rule 54 of CCS (Pension) Rules, 1972 which existed before 27.07.2001, "Family Pension admissible under this rule shall not be granted to a person who is already in receipt of family pension or is eligible therefor under any other rules of the Central Govt. of a State Govt. and/or Public Sector Undertaking/Autonomous Body/Local Fund under the Central or a State Government:" Provided that a person who is otherwise eligible for family pension under this rule may opt to receive family pension under this rule if he forgoes family pension admissible from any other source." One more provisno was inserted vice notification dated 27.07.2001 which states, "Provided further that family pension admissible under the Employees Pension Scheme, 1995 and the Family Pension Scheme, 1971, shall, however, be allowed in addition to the family pension admissible under these rules." However, in 2012 sub-rule (13-B) was deleted vide GoI, DoP&PW Notification No. 1/33/2012-P&PW(E), dated 27.12.2012. As per the amended rule, as it existed today, family pension under CCS(Pension)Rules, 1972 is admissible in addition to family pension from any other source.* ***Further, DoP&PW has no information regarding the other source from where family pension is admissible****, apart from the EPS 1995 and FPS 1971.* 7. Prior to issue of GOI MoD letter No. 1(5)/2010-D(Pen/policy) dated 17.1.2013, families of Armed Forces personnel re-employed in organizations covered under Employee Pension Scheme(EPS)-1995 and Family Pension Scheme(FPS) 1971 were eligible for defence pension since 27.07.2001 vide MoD letter No. 2/CC/B/D(Pension/Policy)/2001 dated 28.8.2001. Hon'ble High Court of Kerala in WP(C) No. 22963 of 2007(H) in the matter of Smt. Leela held that *the disability of a widow to receive family pension from the Air Force, inter-alia, arises only when she is the recipient of a family pension from the Government. The New India Assurance Company, obviously, cannot be equated with a Government, though it is a statutory body and a General Insurance Company, a* ***Government of India undertaking****. Therefore, the petitioner whose husband was re-employed in New India Insurance Company covered under EPS, 1995, is entitled to family pension from the Air Force from the 1st day of the month following the death of her husband.* 8. Hon'ble AFT(PB), New Delhi vide its order/judgement dated 31.10.2012 in OA No.

		116/2012 in the matter of Smt Veena Pant has held that *there is no prohibition which has been bought to our notice from the Air Force Pension Regulation nor did we find any prohibition in the Pension Regulation for the Army, 1961 which prohibits dual pension to a person who have put in requisite service for getting a pension on account of completion of his service in the Army or Navy or Air Force which prohibits grant of family pension to the personnel from the Armed Forces who have put in requisite qualifying service for pension. Therefore, we are of the opinion that the denial of the family pension to the petitioner in view of the death of her husband is not justified.* 9. In view of the orders/judgements in the above cases it has been observed that the Hon'ble High Court of Kerala and AFT(PB), New Delhi has held that family pension from military side cannot be denied to the family of Armed Forces personnel who had put up pensionable service. Military pension in addition to civil family pension to families of Armed Forces personnel re-employed in Civil Deptts/PSUs/Autonomous bodies/local funds etc. has already been allowed w.e.f. 24.09.2012 vide MoD letter dated 17.01.2013. Further, the information regarding **non-government fund or contributory fund or any other pension trust or source** is not available with CGDA, Service Hqrs. and DoP&PW. In view of the above, the recommendation of Raksha Mantri's Committee of Experts vide Para 2.2.12 for grant of second family pension from the date of death of the pensioners instead of 24.09.2012 in all cases **where the pension from the civil side is from an non-government fund or contributory fund or any other pension trust or source** cannot be examined further. *10.* ***However, it has been decided that individual cases will be decided on merit.***
13.	**2.2.13 RESERVIST PENSION TO RESERVISTS RELEASED FROM SERVICE COMPULSORILY PRIOR TO COMPLETION OF PENSIONABLE COLOUR + RESERVE SERVICE:** **The Committee hence recommends that the decision as rendered by the Supreme Court in *Baldev Singh's case* (supra) be implemented in the same terms and all such similarly placed affected personnel be released "Reservist Pension". All pending and future cases in Courts and Tribunals be conceded and all appeals be withdrawn.**	***Under Examination:*** *On completion of the prescribed combined colour and reserve qualifying service, of not less than 15 year, a reservist pension equal to 2/3rd of the lowest pension admissible to a Sepoy, but in no case less than Rs. 375/- p.m (now revised @Rs. 9000/-p.m) may be granted. On the recommendation of 4th Pay Commission, Pension Regulation was amended by linking the pension of reservist to that of a Sepoy, thereby automatic increase in the pension of a reservist with increase in the pension of a Sepoy.* *There is no parity in pension of reservist and Sepoy of regular Army as there is difference in nature of their qualifying service. They are not entitled for regular pension or equivalent pension*

		of Regular Army. *However, the issues '__whether the benefit of One Rank One Pension (OROP) is to be extended to Reservist__' **referred to Judicial Committee on OROP** vide Govt. letter dated 20.7.2016 to examine and make recommendation. The Committee submitted its Report on 26.10.2016which is further being examined by an Internal Committee.* *The issue raised in the Expert Committee has been examined and linked with the reference made to the One Member Judicial Committee (OMJC) on OROP as to whether the benefits of OROP is to be extended to Reservists. Accordingly, it has been decided to keep the matter pending till the decision on report of OMJC is taken.*
14.	**2.2.15 NON ACCEPTANCE OF DECLARATION OF BATTLE CASUALTY AND NON-GRANT OF WAR-INJURY OR LIBERALIZED BENEFITS TO CASUALTIES IN OPERATIONAL AREAS:** **The Committee thus recommends that in terms of the very liberal nature of applicable policy and decisions of Constitutional Courts, the deaths and disabilities arising in notified operations may continue to be granted disability and liberalized pensionary awards without hyper-technically insisting on hairsplitting requirements that do not actually exist in the rules. It is further recommended that the Services HQ may continue awarding 'battle casualty' status to their personnel under their own instructions since the status of 'battle casualty' is not just restricted to pensionary awards but encompasses many other issues such benefits and grants from welfare funds, ex-gratia by States, posting and cadre management etc. The Committee also recommends that all such cases taken up by the Services HQ and pending with the Defence Accounts Department for release of benefits may be cleared within a period of 4 months by intervention of the MoD so as not to prolong the agony of the affected disabled soldiers or the affected military widows and all necessary amendments in service record and pensionary documents be carried out consequently. Deaths and disabilities occurring in Operation Falcon must also be covered under the same terms and conditions as under other notified operations and if need be, the said operation may be declared as equal to other notified operations for financial benefits.**	***Partially Accepted :*** ***As per existing Rule positions, the pensionary benefits of Armed Forces Personnel are*** granted based on the fulfillment of conditions/circumstances cited in GoI MoD letter dated 31.01.2001 with respect to attributability to or aggravation by military service. *Govt. orders dated 07.03.2018 for inclusion of accidental death/injury due to natural calamities while performing in **operational duties**/movement during deployment on LAC under category D of Para 1 Clause (iii) of MoD letter dated 03.02.2011 making them eligible for LFP has been issued.* As regards notifying **Operation Falcon**, the matter was considered by G-Wing of MoD and was not agreed to in view of the following reasons: (a) Border management is the primary role of Army. Forward deployment to safeguard border cannot be treated at par with mobilization for war or war like situation. (b) This will set a wrong precedent and have far reaching financial implications in all such case of mobilizations as there would be similar proposals for declaration. (c) It will also open up large number of old case of compensation on account of death/injury in last 27 years and in future. (d) Troops deployed in the proposed operation area are already drawing field service allowance as applicable and benefits of liberalized pension and ex-gratia payment as per the definition of death and disability. (e) Higher compensation along the Indo-China border as accorded to troops deployed along LC is not justified as war like situation prevails along the LC as compared to the LAC..