Pension and Related Benefits of Civilian Employees

Chapter 10.1

Terms of Reference of the Commission

10.1.1 The term of reference of the Seventh CPC with regard to pension is as under: "*To examine the principles which should govern the structure of pension and other retirement benefits, including revision of pension in the case of employees who have retired prior to the date of effect of these recommendations, keeping in view that retirement benefits of all Central Government employees appointed on and after 01.01.2004 are covered by the National Pension System (NPS).*"

Pensions- Constitutional Provisions and Judicial Position

10.1.2 Article 366(17) of the Constitution defines pension as: "*Pension means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a Provident Fund.*"

10.1.3 Pension has been the subject matter of a number of landmark judgements by the Supreme Court of India in which its nature, obligations of the government thereon and the recognition of distinctiveness in categories of pensions and pensioners has been settled.

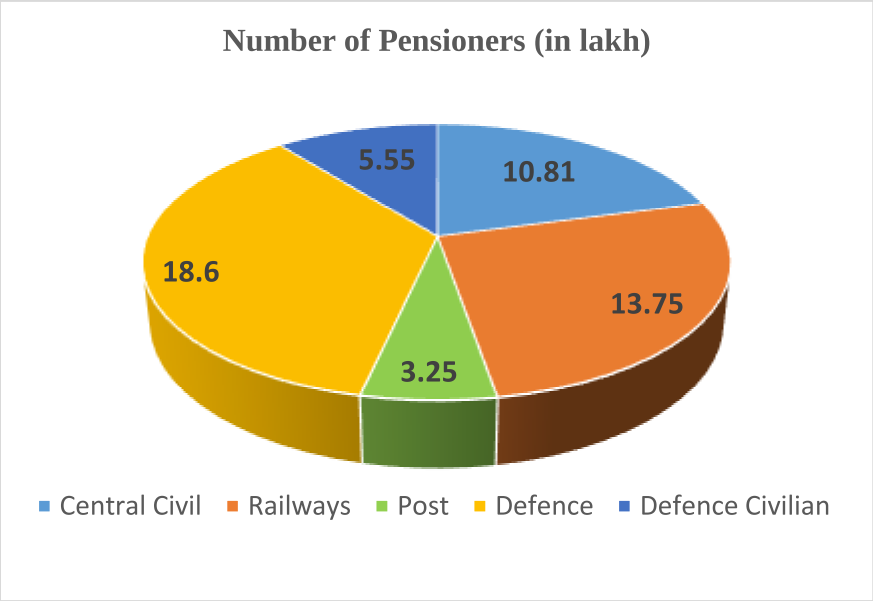
10.1.4 In its judgment in D.S. Nakara and others Vs Union of India [AIR 1983 SC 130] the Supreme Court held that a pension scheme consistent with available resources must provide that a pensioner would be able to live free from want, with decency, independence and self respect and standard equivalent at pre-retirement level. It held that pension is not an ex-gratia payment but payment for past services rendered. At the same time in Indian Ex-Services League & Others Vs Union of India & Others [(1991) 2 SSC 104] the Supreme Court held that the decision in the Nakara case has to be read as one of a limited application and its ambit cannot be enlarged to cover all claims made by the pension retirees or a demand for an identical amount of pension to every retiree from the same rank irrespective of the date of retirement, even though the reckonable emoluments for computation of their pension be different. In the judgement in Vasant Gangaramsachandan Vs State of Maharashtra & Others [(1996) 10 SSC 148] Supreme Court reiterated that pension is not a bounty of the State. It is earned by the employee for service rendered to fall back upon after retirement. It is attached to the office and it cannot be arbitrarily denied.

10.1.5 In the case of petitioners who were retired Railway employees, covered by or who opted for the Railway Contribution Fund Pension Scheme, the Supreme Court in Krishna Kumar Vs Union of India and Others [(1990) 4 SSC 207] averred that it was never held that both the pension retirees and PF retirees formed a homogenous class and that any further classification among them (viz., pension retirees and PF retirees) would be violative of Article 14. Under the Pension Scheme, the government's obligation does not begin until the employee retires but it begins on his/her retirement and then continues till the death of the employee. Thus, on the retirement of an employee, government's legal obligation under the PF account ends while under the Pension Scheme it begins. The rules governing the PF and its contribution are entirely different from the rules governing pension. An imaginary definition of obligation to include all the government retirees in a class was not decided and could not form the basis for any classification for this case.

Strength of Pensioners as on 01.01.2014

10.1.6 Pensioners can be broadly categorised into Civil and Defence. Within civil pensioners there exist three broad categories: Central Civil, Railways and Post.

10.1.7 As on 01.01.2014, as per data reported to the Commission, the total number of pensioners were **51.96 lakh**. The category wise break up is shown in the pie chart below.



Pensioners and Family Pensioners

10.1.8 The break-up of the total **51.96 lakh** pensioners as on 01.01.2014 between pensioners and family pensioners, category wise, is as under:

(in lakh)

	Central Civil	Railways	Post	Defence	Defence Civilian	Total
Pensioners	9.37	10.59	2.28	13.78	4.11	**40.13**
Family pensioners	1.44	3.16	0.97	4.82	1.44	**11.83**
Total number of pensioners	**10.81**	**13.75**	**3.25**	**18.60**	**5.55**	**51.96**

10.1.9 The table above brings out the following:

i. Of the total 51.96 lakh pensioners as on 01.01.2014, 11.83 lakh viz., 23 percent were family pensioners.

ii. Civilian pensioners consisting of Central Government Civil, Railways and Posts, as on 01.01.2014 number 27.81 lakh while defence pensioners (including defence civilians were 24.15 lakh. Defence pensioners (including defence family pensioners and defence civilians) constitute 47 percent of all pensioners.

Age Analysis of Pensioners as on 01.01.2014

10.1.10 Payment of additional pension/family pension with advancing age came into force based on recommendations of the VI CPC. This Commission, with a view to ascertain the strength in various age groups, called for information on age profile of pensioners and family pensioners. The data with regard to pensioners in terms of various age groups, as reported to the Commission, for the five categories of pensioners' viz., Central Civil, Railways, Post, Defence (Civil) and Defence (Services) is as under:

Categories	> 60 and < 70 years	70 to < 80 years	80 to < 90 years	90 to <100 years	Others#	Total
Central Civil	5,22,621	2,12,283	63,899	12,155	2,70,040@	10,80,998
Railways^	5,82,847	5,06,543	2,30,409	55,684	-	13,75,483
Post	1,86,463	83,452	20,558	3,185	30,931	3,24,589
Defence (Civil)	2,83,638	2,24,435	43,618	3,006	-	5,54,697
Defence (Services)	3,57,725	2,97,402	1,03,132	42,861	10,59,379	18,60,499
Total	19,33,294	13,24,115	4,61,616	1,16,891	13,60,350	51,96,266
As % of total pensioners	37.21	25.48	8.88	2.25	26.18	

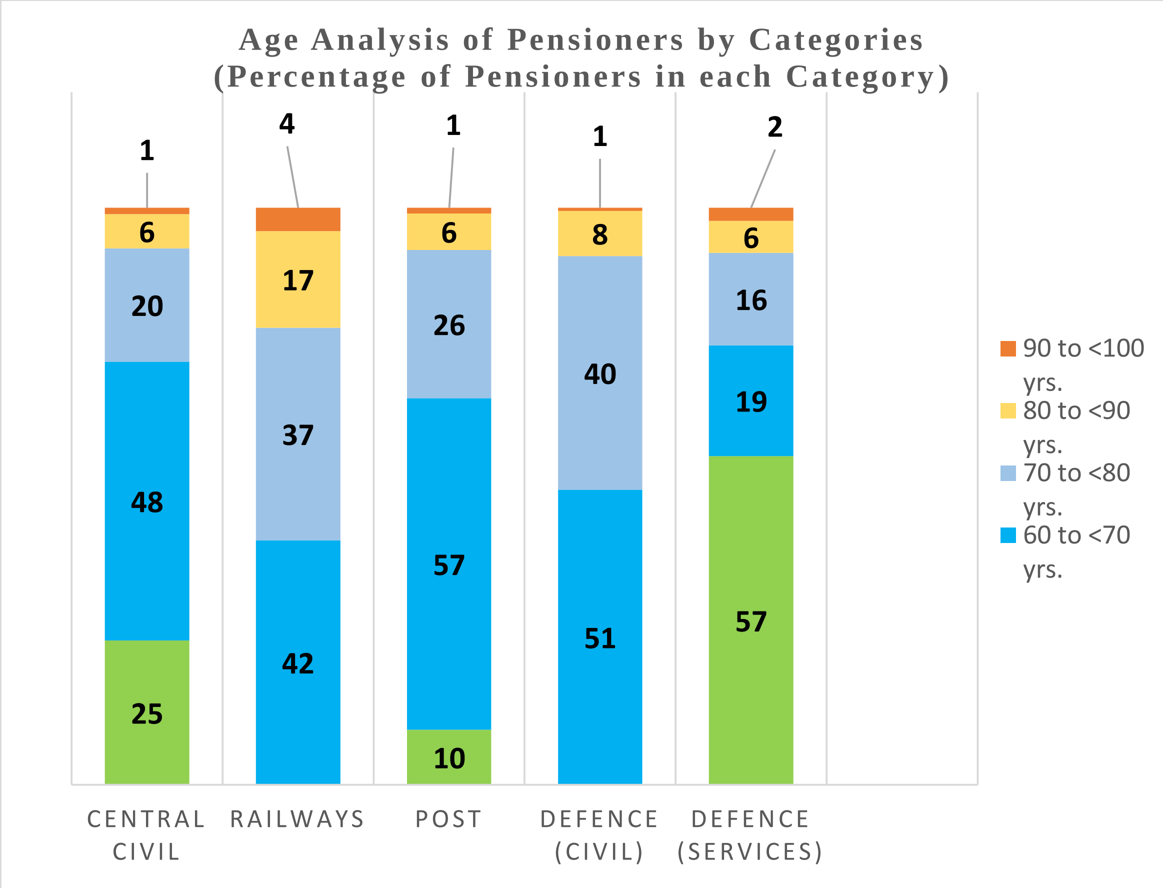
 # Others includes those below 60 years of age and those above 100 years.

@ Others under Central Civil additionally includes cases whose revision had not been effected, certain categories of pensioners like Judges of Supreme Court and High Courts, Ex-MPs, freedom fighters.

^ Railways have included those less than 60 years of age in the 60-70 age group.

10.1.11 From the table above it can be observed that of the total 51.96 lakh pensioners, 37 percent are in the 60-70 age group, about 26 percent each are in the 70-80 and 'Others' age group. The balance 11 percent are in the 80 plus category and thus entitled to enhanced pension based on advancing age.

10.1.12 The stacked bar graph brings out for each category of pensioners the break up in percentage terms of each age group viz., 60-70 years, 70-80 years, 80-90 years, 90-100 years and Others.



Railways have included those less than 60 years of age in the 60-70 age group

10.1.13 The graph above brings out the following:

i. Railways, in comparison to other categories have largest percentage of pensioners above the age of 80 years. While in all other categories this percentage is in the range of 7-9 percent, in the Railways it is 21 percent.

ii. Defence Services have a large percentage of personnel retiring at an early age, as is confirmed by the data. 57 percent of defence service pensioners fall in the 'Others' age group. Central Civil which also includes CAPFs has 25 percent in 'Others' age group.

Expenditure on Pension and other Retirement Benefits

10.1.14 Expenditure on pensions consists of superannuation and retirement pension, commuted value of pension, gratuities, family pensions, leave encashment benefits, compassionate allowance, government's contribution for defined pension scheme for civil personnel joining on or after 01.01.2014 etc. It also includes expenditure on medical treatment of CGHS pensioners. The total expenditure of the Union Government on pensions between FY 2007-08 and 2013-14 is as under:

(figures in ₹ in crore)

Year	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
1. Civil	**9,017**	**12,707**	**21,149**	**20,069**	**23,597**	**26,111**	**29,397**
(As % of total Pension expenditure)	(26.7)	(27.3)	(27.8)	(26.2)	(28.6)	(27.6)	(28.2)
(% increase over previous year)		(40.9)	(66.4)	(-5.1)	(17.6)	(10.7)	(12.6)
2.Defence (Including Defence Civilians)	**15,244**	**20,233**	**34,999**	**37,336**	**37,569**	**43,368**	**45,499**
(As % of total Pension expenditure)	(45.1)	(43.5)	(46.0)	(48.7)	(45.5)	(45.9)	(43.7)
(%increase over previous year)		(32.7)	(73.0)	(6.7)	(0.6)	(15.4)	(4.9)
3. Railways	**7,953**	**11,264**	**16,603**	**16,018**	**17,919**	**21,021**	**24,762**
(As % of total Pension expenditure)	(23.5)	(24.2)	(21.8)	(20.9)	(21.7)	(22.3)	(23.8)
(% increase over previous year)		(41.6)	(47.4)	(-3.5)	(11.9)	(17.3)	(17.8)
4. Posts	**1,609**	**2,274**	**3,339**	**3,177**	**3,499**	**3,968**	**4,443**
(As % of total Pension expenditure)	(4.8)	(4.9)	(4.4)	(4.1)	(4.2)	(4.2)	(4.3)
(% increase over previous year)		(41.3)	(46.8)	(-4.9)	(10.1)	(13.4)	(11.7)
5. Total Pension expenditure	**33,823**	**46,478**	**76,090**	**76,600**	**82,584**	**94,468**	**1,04,101**
(% increase over previous year)		(37.4)	(63.7)	(0.7)	(7.8)	(14.4)	(10.2)
Pension expenditure as % of GDP	**0.69**	**0.84**	**1.20**	**1.00**	**0.94**	**0.95**	**0.92**
Pension Expenditure based on Union Finance Accounts of the respective years. [GDP at market prices based on Economic Survey 2014-15]							

10.1.15 The table above brings out broadly the following:

i. Substantial growth in expenditure on pensions by 3.1 times during the period 2007-08 to 2013-14, particularly in FY 2008-09 and 2009-10, in the aftermath of implementation of the recommendations of the VI CPC.

ii. As a percentage of GDP expenditure on pension rose significantly from 0.69 in FY 2007-08 to 1.20 in FY 2009-10. While there has been a fall in the ratio it was 0.92 in FY 2013-14, well above the levels prior to the implementation of the Report of the VI CPC.

iii. After the spurt in expenditure in FY 2008-09 and 2009-10, the expenditure stabilised from FY 2010-11. Yearly increases thereafter can be attributed largely to the increase in number of pensioners and additional dearness relief paid to pensioners from time to time.

iv. Expenditure on defence pensions has been the single largest component over the years ranging between 43.5 percent and 48.7 percent of total expenditure of the Union Government on pensions.

Pension Regime Over Time

10.1.16 The changes in the pension payout regime in the recent decades, in terms of certain key parameters relating to pension, are listed below.

10.1.17 ***Minimum and Maximum Pension:*** The minimum and maximum pension as admissible based on recommendations of successive CPCs/decision of Government thereon is as under:

Amount (₹)

CPC	Minimum Pension	Maximum Pension
IV CPC	**375**	**4,500**
V CPC	**1,275**	**15,000**
VI CPC	**3,500**	**45,000**

10.1.18 ***Minimum and Maximum Family Pension:*** The minimum and maximum family pension as admissible, based on recommendations of successive CPCs/decision of Government thereon is as under:

Amount (₹)

CPC	Minimum Family Pension	Maximum Family Pension
IV CPC	**375**	**1,250**
V CPC	**1,275**	**9,000**
VI CPC	**3,500**	**27,000**

10.1.19 ***Gratuity:***

Limit as per	Amount (₹ lakh)
IV CPC	1.0
V CPC (Interim Report)	2.5
V CPC (Final Report)	3.5
VI CPC	10.0

10.1.20 ***Commutation:*** The 15 year period of restoration has been uniform through the currency of the IV, V and VI CPCs.

<table>
<tr><th>CPC</th><th>%age of Pension which can be Commuted for Civilians</th><th>%age of Pension which can be Commuted for Defence Personnel</th></tr>
<tr><td>IV CPC</td><td>1/3rd</td><td rowspan="2">45% for JCOs/ORs and 43% for Officers</td></tr>
<tr><td>V CPC</td><td>40%</td></tr>
<tr><td>VI CPC</td><td>40%</td><td>50%</td></tr>
</table>

10.1.21 ***Ex Gratia Lump Sum Compensation Circumstances and Amount:***

(₹ in lakh)

Circumstance in which Death Occurred	V CPC	VI CPC
Accident while performing duties	5	10
Acts of violence by terrorists, anti-social elements etc.	5	10
Border skirmishes and action against militants, terrorists, extremists etc. (and enemy action in international war as applied by MHA)	7.5	15

Specified high altitude, inaccessible border post etc.#		15
Enemy Action in international war or war like engagements notified by Ministry of Defence	10	20

Note: # Post VI CPC

10.1.22 ***Leave Encashment permitted at the time of retirement:***

CPC	Earned Leave
IV CPC	**240 days**
V CPC	**300 days**
VI CPC	**300 days#**
# excludes 60 days EL encashment during LTC	

Demands made with regard to Pension

10.1.23 The principal demands made before the Seventh Central CPC in respect of pensions for civil personnel and those common to both civil and defence personnel are:

i. Raising the existing rates of pension and family pension
ii. The quantum of minimum pension should equal the minimum wage
iii. Increase in the rate of additional pension and family pension to the older pensioners as also reducing the age the eligibility for its receipt from the existing 80 years
iv. Increasing the existing time period of seven years for enhanced family pension.
v. Enhancement in the gratuity ceiling of ₹10 lakh and its indexation
vi. Rationalisation of death gratuity
vii. Reduction in the time period for restoration of basic pension, reduced on account of commutation
viii. Ex-gratia lump sum compensation
ix. Enhancement of ceiling of Earned Leave for purposes of Leave Encashment
x. Enhancement in the existing rates of Fixed Medical Allowance
xi. Enhancement in the rates of Constant Attendance Allowance
xii. Parity in Pension between pre and post Seventh CPC retirees

Raising the Existing Rates of Pension and Family Pension

10.1.24 In representations to and in meetings with the Commission a number of entities have, while seeking a raise in pension from the existing level of 50 percent of last pay drawn, questioned the basis for determination of pension at 50 percent of last pay drawn. Similarly representations for increasing family pension from existing 30 percent to 50 percent of the last pay drawn have been received by the Commission.

Analysis and Recommendations

10.1.25 The Commission sought the views of the government in this regard. The Department of Pension and Pensioners Welfare stated that the VI CPC had recommended calculation of pension @ 50 percent of last pay or the average emoluments (for last 10 months) whichever is more beneficial. The Commission also recommended delinking of pension from qualifying service of 33 years. Effectively the dispensation on pension has already been liberalised by the VI CPC. Further the recommendations of this Commission in relation to pay of both the civilian and defence forces personnel will lead to a significant increase in the pay drawn and therefore in the ‘last pay drawn’/‘reckonable emoluments.’ **Therefore the Commission does not recommend any further increase in the rate of pension and family pension from the existing levels.**

Quantum of Minimum Pension should Equal the Minimum Wage

10.1.26 In representations/depositions before the Commission it has been stated that the existing minimum pension fixed at ₹3,500 is low and it has been argued that minimum pension be fixed equal to minimum pay for sustenance.

Analysis and Recommendations

10.1.27 The Commission sought the views of the government in this regard. The Department of Pension and Pensioners Welfare stated that as per the orders issued after V CPC, the minimum pension in the government was ₹1,275. The normal revised consolidated pension of a pre-2006 pensioner is 2.26 of the pre-revised basic pension. The revised minimum pension of ₹3,500 is much more than 2.26 time of the pre-revised pension of ₹1,275. Further the recommendations of this Commission in relation to pay of personnel will lead to a significant increase in the minimum pay from the existing ₹7,000 per month to ₹18,000 per month. This, based on the computation of pension, will raise minimum pension from the existing ₹3,500 to ₹9,000. The minimum pension based on the recommendations of this Commission will increase by 2.57 times over the existing level.

Increase in the Rate of Additional Pension and Family Pension to the Older Pensioners

10.1.28 In representations/depositions before the Commission, a case has been made by a number of Pensioners Bodies/Associations for lowering the existing age slabs of old pensioners for payment of additional quantum of pension and family pension from the existing 80 years of age. Enhancing the rates for payment of additional quantum of pension and family pension with advancing age have also been made.

Analysis and Recommendations

10.1.29 The additional pension with advancing age came into force based on the recommendations of the VI CPC. The rates as applicable for the additional pension are as under:

- 80 years to <85 years: 20% of basic pension
- 85 years to <90 years: 30% of basic pension
- 90 years to <95 years: 40% of basic pension
- 95 years to <100 years: 50% of basic pension
- 100 years and more: 100% of basic pension

10.1.30 The Commission sought the views of the government in this regard. Department of Pension and Pensioners Welfare stated that the additional pension for old pensioners of the age of 80 years and above has been allowed as per the recommendations of VI CPC. However, it is felt that the same should be allowed from 75 years onwards. The Ministry of Defence has not supported the proposal. The Commission is of the view that **the existing rates of additional pension and additional family pension are appropriate.**

Increasing the existing time period of seven years for enhanced family pension

10.1.31 The Commission has received representations seeking enhancement in the period of enhanced family pension from the existing seven years or 67 years, whichever is less, to ten years in case of death of retirees.

Analysis and Recommendations

10.1.32 The current rates of enhanced family pension are–

i. In the case of death in service: Payable to the family of a government servant for a period of ten years from the date of death of a government servant, without any upper age limit.
ii. In the case of death after retirement: Payable for a period of seven years or up to the date on which he would have attained 67 years had he survived, whichever is less.

10.1.33 **The Commission notes that the revision with regard to period of eligibility for the enhanced family pension of ten years was made based on recommendations of the VI CPC Report. No further change is being recommended by this Commission.**

Enhancement in the Gratuity Ceiling and its Indexation

10.1.34 A number of representations have been received by the Commission stating that there is a need to revise the existing ceiling of ₹10.00 lakh with regard to payment of service gratuity.

Analysis and Recommendations

10.1.35 Rule 49 and 50 of the CCS (Pension) Rules provides that a government servant is entitled to get retirement gratuity equal to one-fourth of his emoluments for each completed six monthly period of qualifying service subject to a maximum of 16.5 times of the last emoluments subject to a maximum of ₹10 lakh.

10.1.36 The Commission sought the views of the government in this regard. The Department of Pension and Pensioners Welfare stated that the VI CPC has increased the amount of gratuity from ₹3.5 lakh to ₹10 lakh w.e.f. 01.01.2006. This amount, in the view of the department, is not commensurate with emoluments that are available to senior officers at the time of retirement. The department has suggested to the Commission that a view could be taken to index gratuity with amount of DA admissible at the time of retirement.

10.1.37 The Commission notes that there is merit in the argument advanced to index the ceiling on gratuity so that the benefits of the enhanced ceiling are available to personnel in a manner which is more even over a time frame. **The Commission recommends enhancement in the**

ceiling of gratuity from the existing ₹10 lakh to ₹20 lakh from 01.01.2016. The Commission further recommends, as has been done in the case of allowances that are partially indexed to Dearness Allowance, the ceiling on gratuity may increase by 25 percent whenever DA rises by 50 percent.

Rationalisation of Death Gratuity

10.1.38 The Commission has received representations pointing to a need for rationalization of current slabs for death gratuity, especially for the slab of 5 to 20 years of qualifying service in which family pensioners are stated to be placed at a disadvantageous position.

Analysis and Recommendations

10.1.39 As per Rule 50 of Pension Rules, the death gratuity admissible will be as follows, subject to the maximum limit prescribed for the gratuity:

Length of Service	Rate of Death Gratuity
Less than one year	2 times of monthly emoluments
One year or more but less than 5 years	6 times of monthly emoluments
5 years or more but less than 20 years	12 times of monthly emoluments
20 years or more	Half month of emoluments for every complete six monthly period of qualifying service subject to a maximum of 33 times of monthly emoluments

10.1.40 The Commission sought the views of the government in this regard. Department of Pension and Pensioners Welfare stated that it had received similar demands from pensioners' association and it feels a need for a review of the existing slabs for death gratuity.

10.1.41 **The Commission, after examination of the matter, recommends the following revised rates for payment of death gratuity:**

Length of Service	Rate of Death Gratuity
Less than one year	2 times of monthly emoluments
One year or more but less than 5 years	6 times of monthly emoluments
5 years or more but less than 11 years	12 times of monthly emoluments
11 years or more but less than 20 years	20 times of monthly emoluments
20 years or more	Half month of emoluments for every complete six monthly period of qualifying service subject to a maximum of 33 times of emoluments

Reduction in the time period for Restoration of Basic Pension

10.1.42 The Commission has received a number of representations requesting reduction of restoration period of commuted portion of pension from the existing 15 years.

Analysis and Recommendations

10.1.43 The Commission notes that prior to V CPC the commutation allowed was one-third. However, there was no restoration. The Supreme Court, vide their judgement dated 09.12.1986, allowed restoration of pension after 15 years. The Supreme Court in its judgement specifically stated that though the amount is recovered in 12 years, yet since there is a risk factor and some of the states are restoring pension after 15 years, the period of restoration is fixed at 15 years. The V CPC in its recommendation increased the percentage of commutation to 40 percent and recommended restoration period at 12 years. But the reduction of restoration period was not accepted by the government. The VI CPC did not recommend any change in the maximum percentage of commutation allowed or in the period of restoration. **This Commission also does not recommend any change either in the maximum percentage of commutation or in the period of restoration.**

Enhancement of ceiling of Earned Leave for purposes of Leave Encashment

10.1.44 The Commission has received representations seeking raising the ceiling limit of 300 days to 450 days for purposes of Leave encashment.

Analysis and Recommendations

10.1.45 The Commission notes that based on the recommendations of the VI CPC, serving employees are entitled for encashment of Earned Leave up to 60 days while in service. This is not to be deducted from the maximum number of Earned Leave of 300 days encashable at the time of retirement. The VI CPC, therefore, has further liberalised the regime of leave encashment.

10.1.46 **The recommendations in relation to pay of both the civilian and defence forces personnel will also lead to a significant increase in the pay drawn and therefore in the total *amount* of leave encashment available for an employee. Therefore raising the present ceiling of 300 days is not recommended by the Commission.**

Ex-gratia lump sum compensation

10.1.47 The Commission has received representations seeking enhancement in *ex-gratia* lump sum compensation for Next-of-Kin (NoK) of CAPF, Assam Rifles and defence forces personnel who die in harness in performance of their bona fide official duties.

10.1.48 The issue has been dealt with in Chapter 10.2.

Fixed Medical Allowance

10.1.49 The Commission has received representations seeking enhancement in Fixed Medical Allowance, currently payable at the rate of ₹500 per month for pensioners not covered under Central Government Health Service (CGHS).

10.1.50 The Commission has examined the matter in Chapter 8.17.

Constant Attendance Allowance

10.1.51 The Commission has received representations seeking enhancement in Constant Attendance Allowance from the present rate of ₹4,500 per month.

10.1.52 The Commission has examined the matter in Chapter 8.17.

Parity in Pension between Pre and Post Seventh CPC Retirees

10.1.53 This Commission has received a number of representations on the issue of disparities in pensions between past pensioners and existing pensioners. The JCM-Staff Side, has in its memorandum, stated that the pay of every pre-Seventh CPC retiree should be notionally re-determined (corresponding to the post from which he or she retired and not corresponding to the scale from which he or she retired) as if he or she is not retired and then the pension be computed under the revised liberalised rules which are to be applicable to the post Seventh CPC retirees. A similar view has been expressed by a number of other Associations/Bodies representing Central Government pensioners. Further, certain groups of pensioners have contended that based on the recommendations of the VI CPC, the new pay structure consisting of Pay Bands and Grade Pays has led to bunching of a number of pre revised pay scales into a particular Pay Band. This, in their view, has placed pre-01.01.2006 pensioners in certain pay scales/Pay Bands at a disadvantage not only compared to the post 01.01.2006 pensioners in the corresponding pay scales but also in comparison to post 01.01.2006 retirees of lower pay scales.

Analysis and Recommendations

10.1.54 The Commission is of the view that the issue of parity in pensions is extremely important from the viewpoint of inter-temporal equity and merits a careful examination.

10.1.55 **Treatment of Existing and Past Pensioners over time**: The concerns of pensioners' associations and of individual pensioners on the issue of disparities in pensions amongst broadly comparable retirees, has been dealt with in reports of successive CPCs and also by the government. This is detailed in the succeeding paragraphs.

10.1.56 Till the III CPC, it was a general view that past and future pensioners cannot be treated at par and the practice was that benefit of improvement in the pension would be available to newly retiring pensioners from a prospective date. In fact the III CPC took the view that serving government employees and pensioners could not be treated at par as regards grant of DA at the same rate. A significant change in the paradigm for treatment of pensioners, past and future, emerged from the judicial pronouncement in D.S. Nakara vs Union of India in 1982 (AIR 1983 SC 130), based on which, for the first time, improvements in pensionery benefits were extended to pensioners who had retired prior to the date from which improvements became effective.

10.1.57 The IV CPC recommended, for both civil and defence pensioners, additional relief in terms of a percentage increase in amount of pension subject to a certain minimum increase. Separate rates were applicable to pensioners drawing pension upto ₹500 per mensem and those above ₹500 per mensem.

10.1.58 The V CPC made a definitive shift in the treatment of past pensioners. The Commission took the view that the process of bridging the gap in pension of past pensioners, set into motion by the IV CPC by grant of additional relief in addition to consolidation of pension, needed to be continued so as to achieve complete parity over a period of time. It, accordingly, recommended that pension of all the pre-1986 retirees may be updated by notional fixation of their pay as on 1 January, 1986 by adopting the same formula as for the serving employees. The consolidated pension so arrived at was to be not less than 50 percent of the minimum pay, as revised by V CPC, of the scale of the pensioner at the time of retirement. This principle by which past pensioners are brought up to the minimum of the scale which replaced the scale in which the pensioner retired has been termed as modified parity. This consolidated amount of pension was to be the basis for grant of dearness relief in future.

10.1.59 The VI CPC noted that modified parity had already been conceded between pre and post 1 January, 1996 pensioners. It also observed that full neutralisation of price rise on or after 1 January, 1996 had also been extended to all the pensioners. Therefore, the Commission felt that no further changes in the extant rules were necessary. To maintain the existing modified parity between present and future retirees, it recommended that those who retired before 01.01.2006 be given the same fitment benefit as was recommended for the existing government employees.

10.1.60 The above points to a distinct transition in the view taken by successive CPCs and the government, beginning with the III CPC. The V CPC, by recommending that pension of all the pre-1986 retirees should be updated by notional fixation of their pay, made a landmark advancement in the regime for past pensioners. In principle, the VI CPC proposed provision of the same modified parity as was envisaged in by the V CPC. However, the new pay structure introduced by the VI CPC, based on running Pay Bands and Grade Pays, led to the bunching of a number of pre revised pay scales into a particular Pay Band, thereby diminishing the benefit of the intended modified parity. This naturally led to several representations following which certain corrective orders were issued by the government, some of which were based on the orders of various Courts.

10.1.61 **Judicial Pronouncements on the Issue**: The issue of pension has been a matter of debate in a large number of cases before the Hon'ble Supreme Court of India. One of the early leading judgments on the subject is the case of D.S. Nakara V/S Union of India & Ors. [1983] 1 SSC 305. In this case, it was held that pensioners form a class as a whole and cannot be micro-classified by an arbitrary, unprincipled and unreasonable eligibility criteria for grant of revised pension. This ratio further came up for consideration before another constitutional bench in the case of Krishan Kumar V/S Union of India & Ors. [(1990 4 SCC 207)]. This constitutional bench distinguished the D.S. Nakara (supra) and held that it has limited application. The D.S. Nakara case again came up for discussion in the case of Indian Ex-Services League V/S Union of India & Ors [(1991) 2 SCC 104)]. This constitutional bench further considered the case of D.S. Nakara and held that this case has limited application and its ambit cannot be enlarged to cover all claims made by pensioners retirees or a demand for an identical amount of pension to every retiree from the same rank irrespective of the date of retirement, even though the reckonable emoluments for computation of their pension be different. The decision of D.S. Nakara came up for consideration in two successive constitutional benches and they did not approve the ratio enunciated in the case D.S. Nakara (Supra). Subsequently, the case of D.S. Nakara (Supra) has been followed by some benches and some have distinguished it. A large number of cases have been summed up recently in the decision given in the case of State of Punjab V/S Amar Nath Goyal [(2005) 6 SCC 754)]. In this case, all cases on the subject were reviewed and it was laid down that the government can make distinction in the matter of payment of pension between two classes of pensioners. Various decisions, including the aforesaid two constitutional benches i.e., Krishan Kumar (Supra) and Indian Ex-Services League (Supra) and the judgement given in D.S. Nakara (Supra) were considered. Decisions given in the case of Action Committee South Eastern Railway Pensioners V/S Union of India [(1991 Supp. (2) SCC 544)] was also referred to. In this case also, it was accepted that distinction can be made between two pensioners. Similarly in the case of State of Rajasthan V/S Amrat Lal Gandhi [(1997) 2 SCC 342)], it was held that financial implication can be a consideration for making two classes of the pensioners though similarly placed. Similarly in the case of State of Punjab V/S Buta Singh [(2000) 3 SCC 733)], the Supreme Court held that the position that emoluments of persons holding the same status who retired after a notified date must be treated to be the same cannot be accepted. In the case of State of Punjab V/S G.L. Gupta [(2003) 3 SCC 736)] it was held that for grant of additional benefits that had financial implications, the prescription of a specific future date for conferment of additional benefits could not be considered arbitrary. However, the Apex Court has also taken a contrary view in some cases relying on D.S. Nakara's case.

10.1.62 In the case of Dhanraj & Ors. V/S State of J&K and others [(1994) 4 SCC 30)], it was held with reference to government order of J&K, that the distinction between pre and post retires of June 1981 in payment of pension cannot be justified and it is violative of Article 14 of Constitution. Similarly, in a recent judgement of Hon'ble Court given in the case of Union of India & Anr. V/S SPS Vains (Retd.) & Ors. [(2008) 2 SCC (LS 838)], the case of D.S. Nakara (Supra) was followed and it was held that the disparity created within the same class i.e., two officers both retired as Major Generals one prior to 1.1.1996 and other after that date but getting different amounts of pension was arbitrary and that the same also offends Article 14 of the Constitution of India.

10.1.63 The legal position that emerges from the aforesaid decision of the Apex Court is that classification should be founded on a rational basis while distinguishing one class from other. It should not be discriminatory or violative of Article 14 of the Constitution. The Apex Court has examined each case on its merit and wherever they have found that distinction between similarly placed classes is discriminatory then the same has been struck down.

10.1.64 **Pension Payout to Personnel in the Central Government:** The preceding paragraphs bring out the evolution of the pension regime over time and the role of the Judiciary in settling the law on the subject. There is clear evidence that governments have progressively moved towards a liberalised regime for past pensioners. The VI CPC has further provided for additional pension with advancing age. What this has effectively translated into is testified by examples[36] of pension fixation of personnel across groups who have retired in the past decades. For example a Secretary to the Government of India retiring on 31 August, 1992 was in receipt of a basic pension of ₹4,000 per month. The basic pension after implementation of the V and VI CPC got revised to ₹13,000 and ₹40,000 respectively. With the benefit of dearness relief[37] this pensioner is on date entitled to a total payout in terms of pension and dearness relief of ₹87,600. Further, as a pensioner who is over 80 years of age he is entitled to an additional pension equivalent to 20 percent of basic pension. In effect the pensioner is in receipt of a total payout of ₹105,120 per month as on date. Similarly, a Director (in GP 8700 as per VI CPC) retiring on 30 September, 1994 with a basic pension of ₹2,556 per month got revised basic pension of ₹7,042 and ₹22,701 per month after implementation of the V and VI CPC respectively. With the benefit of dearness relief[38] the pensioner is on date entitled to a total payout in terms of pension and dearness relief of ₹49,715 per month. The basic pension for a Group `C' official retiring on 30 September, 1991 from the scale of ₹950- 1500 was fixed at ₹717 per month. His basic pension, after implementation of the V and VI CPC, got revised to ₹2,188 and ₹4,946 respectively. With dearness and pensionery increase due beyond 80 years the pensioner is in receipt of a total payout of ₹12,998 per month.

10.1.65 The three illustrations point to a substantial increases in pension, across groups, during a span of between 20 and 25 years.

10.1.66 **Recommendations of the Commission:** For employees joining on or after 01.01.2004, the concept of pension, so far as Civilian employees including CAPFs are concerned, has undergone a complete change. After the enactment of the Pension Fund Regulatory and Development Act, 2013, it is not the exclusive liability of the government to pay the pension. As per the new dispensation the employee and the government are to make equal matching contribution towards their pension. This dispensation is not applicable to the defence forces personnel. They continue to get the defined benefit pension as before. In this section the Commission is dealing with Civilian pensioners under the old pension scheme, i,e, those who joined before 01.01.2004.

10.1.67 The Commission recommends the following pension formulation for civil employees including CAPF personnel, who have retired before 01.01.2016:

i) **All the civilian personnel including CAPF who retired prior to 01.01.2016 (expected date of implementation of the Seventh CPC recommendations) shall first be fixed in the Pay Matrix being recommended by this Commission, on the basis of the Pay Band and Grade Pay at which they retired, at the minimum of the corresponding level in the matrix. This amount shall be raised, to arrive at the notional pay of the retiree, by adding the number of increments he/she had earned in that level while in service, at the rate of three percent. Fifty percent of the total amount so arrived at shall be the revised pension.**

[36] Actual cases as obtained from Central Pension Accounting Office (CPAO) etc.
[37] Dearness Relief of 119 percent, as effective from 1 July, 2015.
[38] Dearness Relief of 119 percent, as effective from 1 July, 2015.

ii) **The second calculation to be carried out is as follows. The pension, as had been fixed at the time of implementation of the VI CPC recommendations, shall be multiplied by 2.57 to arrive at an alternate value for the revised pension.**

iii) **Pensioners may be given the option of choosing whichever formulation is beneficial to them.**

10.1.68 **It is recognised that the fixation of pension as per formulation in (i) above may take a little time since the records of each pensioner will have to be checked to ascertain the number of increments earned in the retiring level. It is therefore recommended that in the first instance the revised pension may be calculated as at (ii) above and the same may be paid as an interim measure. In the event calculation as per (i) above yields a higher amount the difference may be paid subsequently.**

10.1.69 Illustration on fixation of pension based on recommendations of the Seventh CPC.

Case I

10.1.70 Pensioner 'A' retired at last pay drawn of ₹79,000 on 30 May, 2015 under the VI CPC regime, having drawn three increments in the scale ₹67,000 to 79,000:

		Amount in ₹
1.	Basic Pension fixed in VI CPC	39,500
2.	Initial Pension fixed under Seventh CPC (using a multiple of 2.57)	1,01,515- Option 1
3.	Minimum of the corresponding pay level in 7 CPC	1,82,200
4.	Notional Pay fixation based on 3 increments	1,99,100
5.	50 percent of the notional pay so arrived	99,550- Option 2
6.	Pension amount admissible (higher of Option 1 and 2)	1,01,515

Case II

10.1.71 Pensioner 'B' retired at last pay drawn of ₹4,000 on 31 January, 1989 under the IV CPC regime, having drawn 9 increments in the pay scale of ₹3000-100-3500-125-4500:

		Amount in ₹
1.	Basic Pension fixed in IV CPC	1,940
2.	Basic Pension as revised in VI CPC	12,543
3.	Initial Pension fixed under Seventh CPC (using a multiple of 2.57)	32,236 Option 1
4.	Minimum of the corresponding pay level in 7 CPC	67,700
5.	Notional Pay fixation based on 9 increments	88,400
6.	50 percent of the notional pay so arrived	44,200 Option 2
7.	Pension amount admissible (higher of Option 1 and 2)	44,200

Pension and Related Benefits of Defence Forces Personnel

Chapter 10.2

Background on Defence Pension

10.2.1 The origin of military pensions can be traced back to ancient Rome, which offered pensions to its military personnel. Initially offered on an ad-hoc basis, Augustus formalised a pension plan for veteran legionnaires in 13 BC which promised a pension upon completion of 20 years in service. Similar schemes re-emerged with the creation of the nation states in Europe in the 17th century which led to establishment of professional standing armies. On August 26, 1776, the Continental Congress enacted the first American pension law. Pension in modern Indian history can be traced to Lord Clive Military Fund, which provided benefits for European officers and other ranks of East India Company and Indian Army and their widows but not their children. A formal pension legislation called The Pensions Act, 1871 came into effect from 8 August, 1871.

10.2.2 Till 1953 the Old Pension Code formed the basis for regulating the pension structure of JCO/ORs. Effective 1.6.1953 the Post War Pension Code was introduced based on the recommendations of the Armed Forces Pension Revision Committee (AFPRC). The underlying philosophy governing the rate of pension was not to induce continuance in service to gain more pension once they ceased to be useful. Some modifications in regulation of pension were made effective 1.3.1968 based on the recommendations of the Kamath Committee. The pension and retirement benefits of defence forces personnel from the III CPC onwards have been regulated based on recommendations made by successive Pay Commissions.

Defence forces pensioners–Special characteristics

10.2.3 Defence forces personnel retire at a relatively young age. The retirement of JCOs/ ORs who constitute the bulk of defence forces personnel in the three Services is as under:

(in years)

Sl. No.	Rank	Army		Navy		Air Force	
		Term of Engagement	Retiring Age	Term of Engagement	Retiring Age	Term of Engagement	Retiring Age
1	Sepoy/ Equivalent	19-22	42-48	15	52	17-22	52
2	Naik/ Equivalent	24	49	19-22	52	19-24	49-52
3	Havildar/ Equivalent	26	49	25-28	52	25-28	49-52
4	Naib Subedar/ Equivalent	28	52	30-32	52	28-33	52

Sl. No.	Rank	Army		Navy		Air Force	
		Term of Engagement	Retiring Age	Term of Engagement	Retiring Age	Term of Engagement	Retiring Age
5	Subedar/ Equivalent	30	52	34-35	57	30-35	52-57
6	Subedar Major/ Equivalent	34	54	37	57	33-37	54-57

10.2.4 While the table above indicates the term of engagement and retiring age for JCOs/ORs, the personnel retire on completion of their term of engagement or retirement age whichever is earlier. Officers in all the three Services generally retire between the ages of 54 to 60 years.

10.2.5 Data received by the Commission indicates that 57,500 defence forces personnel retired during the year 2013-14. Of these 96 percent were JCOs/ORs. The largest number of retirements were from the ranks of Havildar and equivalent at 24,458, which constituted over 43 percent of all retirements among defence forces personnel.

10.2.6 Defence forces personnel have been exempted from the National Pension System introduced across the entire spectrum of Central Government employees, with effect from 01.01.2004. Fresh entrants to the Defence Forces are the only ones who continue to be eligible for the Defined Benefit pension regime (pay-as-you-go model). Further, in the computation of reckonable emoluments for pension for defence forces personnel, the Military Service Pay, which has been granted only to these personnel, is specifically included.

10.2.7 An option may, however, be given to the Defence forces personnel to join the NPS, should they wish to do so.

Defence Pensions in Select Countries

10.2.8 Pakistan, France, China and Germany also have ‘pay-as-you-go’ model schemes for their defence personnel, as is the case in India.

10.2.9 In the UK, all public service pension schemes (including the Armed Forces schemes) have been replaced by new schemes from April 2015. The Armed Forces Pension Scheme (AFPS 15) remains non-contributory and in the nature of a Defined Benefit scheme. It is based on career average pensionable pay, which means it will guarantee a certain level of pension. The scheme is based on a Career Average Revalued Earning (CARE) model while the earlier pension schemes were final salary/final rank based schemes. AFPS 15 will also continue to provide valuable additional benefits such as ill-health pensions and payments to family members after pensioner’s death.

10.2.10 In the US, defence pension is a non-contributory and Defined Benefit scheme but it is being financed through an accrual system. Under this system, each year the individual services transfer from their budgets into the Retirement Fund the amount necessary to fund the eventual retirement benefits earned by the entitled personnel. While such a policy has no implications for the recipient, as he would continue to receive his entitlement, the important change it brings about is that if today a policy is changed that would affect future retirement benefits for the current force, the policy maker would now see the immediate budgetary consequences of that decision in the increase in the amount to be transferred to the retirement fund.

10.2.11 Japan, post-World War II, does not have a separate pension scheme for military personnel. Defence pensioners are treated in the same way as national government employees and are covered by the same pension arrangement as national government employees. In South Korea defence pensions are financed by contributions from the military members and the government (8.5 percent of basic salary, respectively). In addition, whenever pension deficit occurs, it is to be subsidised by the government's general budget.

10.2.12 In Australia and New Zealand, over a period of time, personnel of the Defence forces have also been brought under the Defined Contribution system. Hybrid pension schemes have been developed with a fixed contribution by the government with optional contribution by the employee.

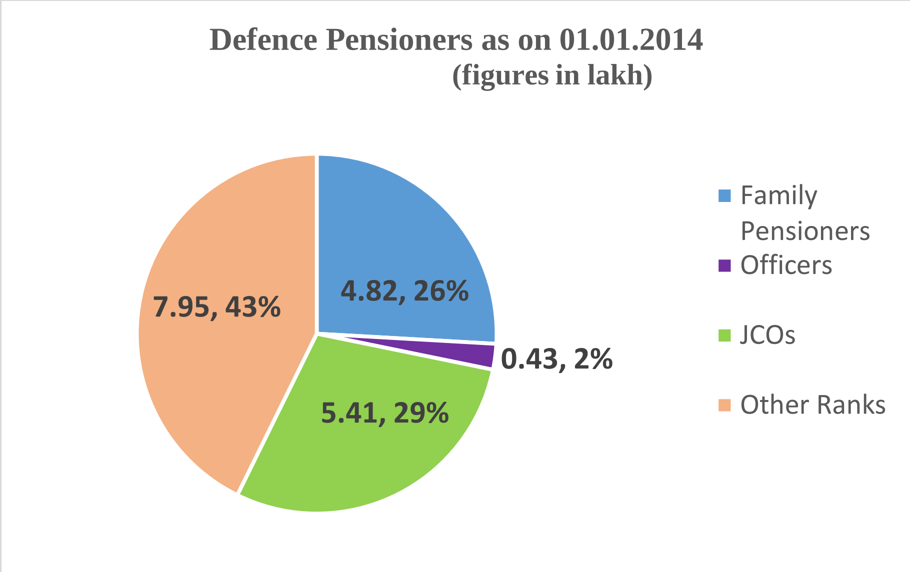
10.2.13 In the last couple of decades, there has been increasing concern about the subtainability of unfunded pension systems in our country. In the context of Defence forces personnel, the annual addition of large numbers to the pool of retirees, the general increase in longevity, as also the proposed introduction of the One Rank One Pension scheme, will together lead to a huge increase in the government's liability towards Defence Pensions. The government may, therefore, explore the possibility of laying down a Defined Contribution Scheme for Defence forces personnel where the employee makes a contribution and a suitable amount is contributed by the government so that a sizeable corpus is built up.

Analysis of Data on Defence Pensioners

10.2.14 Defence Pensions are budgeted and accounted for under the Ministry of Defence and provide for pensionery charges in respect of retired defence personnel, including civilian employees of the three Services viz., Army, Navy and Air Force and also employees of Ordnance Factories etc. The Commission has received wide ranging data from the Controller General of Defence Accounts in relation to defence pensioners. As on 01.01.2014 there were 24.1 lakh defence pensioners: 18.6 lakh defence forces pensioners and 5.5 lakh defence civilians.

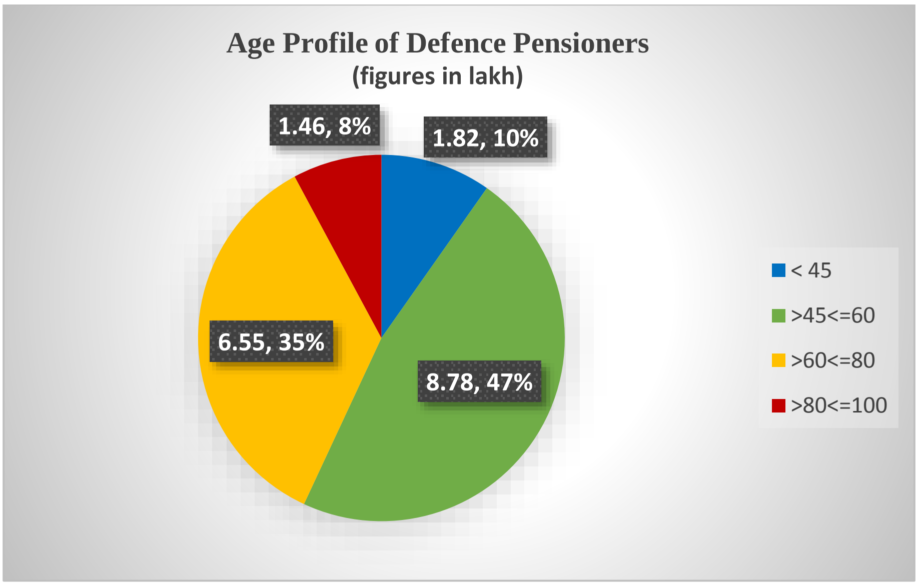
Defence Pensioners- Categories

10.2.15 Of the 18.6 lakh Defence forces pensioners on 01.01.2014 the chart below brings out the break down between Officers, JCOs and ORs and Family pensioners.



Defence pensioners, age wise

10.2.16 The variation in age of retirement of defence personnel is reflected in the age profile of defence pensioners. Unlike civil pensioners, amongst defence forces pensioners there is a large percentage of pensioners below the age of 60. The age profile of the 18.6 lakh defence pensioners as on 01.01.2014 in brought out in the following pie chart:



10.2.17 Ten percent pensioners are below the age of 45 years, while 47 percent are between 45-60 years of age. Over 1.45 lakh viz., 8 percent of defence pensioners, inclusive of family pensioners, are in age group of eighty and above. This category receives additional pension as per with prescribed slabs.

Defence Pensioners with Disability Element

10.2.18 The Commission had sought information on defence pensioners with disability element. It was informed that such data was not being maintained for pensioners who retired prior to 01.01.2006. For the seven year period 2007-08 to 2013-14, there were 37,537 pensioners who retired with disability element: 35,386 amongst JCOs /ORs and 2151 among officers.

Demands Relating to Defence Pensioners

10.2.19 The Commission has received a number of demands relating to pensions for defence forces personnel through the Joint Services Memorandum (JSM) from the Services, Pensioners Associations and Bodies including those dealing with the needs of special categories like war veterans, disability etc. The demands/representations received in the Commission have been examined under the broad categories of Retiring Pension, Family Pension, Disability Pension and Ex-gratia lump sum compensation.

Demand Relating to Retiring Pension

10.2.20 The principal demands made before the Seventh CPC in respect of retiring pensions as applicable to the defence personnel were:

i. Minimum pension should be fixed at 75 percent of reckonable emoluments for JCOs/ Other Ranks or a compulsory early retirement compensation package or lump sum amount.
ii. Additional quantum of pension with advancing age should commence at the age of 70 years for JCOs/ Other Ranks instead of 80 years as prevails today.
iii. Pre 2006 Honorary Naib Subedar may be given pension of Naib Subedar.
iv. Defence Security Corps (DSC) personnel may be granted second pension on completion of 10 years of service at par with civilians.
v. The depression in pension for qualifying service between 15 and 20 years may be removed and complete earned pension may be made admissible to Territorial Army personnel.

Minimum Pension for JCOs/ ORs

10.2.21 The Services, in the JSM, have sought enhancement of the Service Pension to 75 percent of last drawn reckonable emoluments for JCOs and ORs. In case enhancement of pension to 75 percent of last drawn reckonable emoluments is not granted for JCOs/OR, the Services have sought a compulsory early retirement compensation package or compulsory lateral absorption in government or PSU as an alternative.

Analysis and Recommendations

10.2.22 Service pension for all categories of employees has been fixed at 50 percent of the last pay drawn. The recommendations in relation to pay of both the civilian and defence forces personnel will lead to a significant increase in the pay drawn and therefore in the ‘last pay drawn’/‘reckonable emoluments.’ It is also to be noted that in the case of defence forces personnel, in particular all JCOs/ORs, the last pay drawn includes the element of Military Service Pay, which is also taken into account while reckoning pension. The Commission has also recommended an increase in Military Service Pay. The increase in pay and MSP will automatically and significantly raise the level of pension of JCOs/ORs, since pension is related to the last pay drawn/ reckonable emoluments. **Therefore the Commission does not recommend any further increase in the rate of pension for JCOs/ORs.**

Additional Quantum of Pension with Advancing Age

10.2.23 The Services have sought a modification in the existing old age pension scheme for JCOs/ ORs whereby the additional quantum of pension should commence at the age of 70 rather than the existing age of 80. The quantum of increase has also been sought to be raised upwards for various categories of old age pensioners.

Analysis and Recommendations

10.2.24 The scheme of additional pension and additional family pension with advancing age was introduced subsequent to recommendations of the VI CPC. The amount of pension for existing pensioners will be revised upwards in accordance with the fitment formula that has been prescribed by the Commission. **No further increase in the existing rate of additional pension and additional family pension with advancing age is therefore recommended by the Commission.**

Pre-2006 Honorary Naib Subedar

10.2.25 The Services have sought that the provision of grant of pension of Naib Subedar to Havildars and equivalent who are given Honorary rank of Naib Subedar after retirement, currently applicable to post 01.01.2006 retirees only, should also be extended to pre 01.01.2006, retirees. The Services have contended that the current policy has resulted in creation of two classes of pensioner's viz., pre and post 01.01.2006, which is undesirable.

Analysis and Recommendations

10.2.26 The Commission has examined the matter. It notes that the VI CPC had recommended that the pension of all Honorary rank Naib Subedar will be payable by taking this placement as a regular promotion to the higher grade and this would applicable "henceforth." The VI CPC has been unambiguous as far as the date of effect of the benefit. **This Commission does not find any merit in re-opening an issue that has been clearly settled. Therefore no change is being recommended in this regard**.

Defence Security Corps (DSC) Personnel

10.2.27 The Services have sought reduction in the qualifying service for entitlement of second pension to Defence Security Corps (DSC) personnel from 15 to 10 years. To support their demand it has been contended that all employees taking up second employment in Central Government establishments earn their second pension after completing 10 years of service whereas for DSC personnel 15 years of service is mandatory.

Analysis and Recommendations

10.2.28 The Commission notes that personnel in the Defence Security Corps are tasked to protect defence units/installations and defence civil establishments and they are subject to the Army Act. The personnel in the Corps are drawn from amongst JCOs and ORs retiring from active service from the three Services. The present demand is made on the premise that all employees taking up second employment in Central Government establishments earn their second pension after completing 10 years of service. This does not however hold true post 1 January, 2004. Civilian personnel joining after 1.1.2004 are covered only by the National Pension System, therefore those taking up second employment in Central Government establishments will also not be entitled to any pension, other than through the defined contribution regime. **The Commission therefore does not recommend reduction in the qualifying service for entitlement of second pension to Defence Security Corps (DSC) personnel from 15 to 10 years.**

Depression in Pension for Qualifying Service

10.2.29 Territorial Army personnel qualify for pension after 20 years of service. Those with qualifying service between 15 and 20 get a `depressed' pension. The services have asked for this depression to be removed and for the complete earned pension be made admissible to Territorial Army (TA) personnel. To advance their case they have contended that TA personnel are governed by the same conditions and guidelines as are applicable to all other defence service personnel while calculating the pension. Therefore reducing their pension would create a lower category of personnel and an implied class system. The demand for this is to be done away with.

Analysis and Recommendations

10.2.30 The Commission, on perusal of the statutes governing the Territorial Army, notes that the qualifying 'embodied' service for a Territorial Army personnel may be continuous or rendered in broken spells. For calculating the total 'embodied' service, the break in service due to dis-embodiment is condoned but the period of break itself is not treated as qualifying service for pension. The five percent cut is only imposed on the pension of those JCO/ORs, whose qualifying, embodied service has been rendered in broken spells. **The Commission observes that pension formulation is appropriate and finds no justification for a review of the existing arrangements with regard to pension of Territorial Army personnel.**

Demand Relating to Family Pension

10.2.31 The principal demands made before the Seventh CPC in respect of family pension in respect of Defence Forces personnel are as follows:

i. Enhanced Ordinary Family Pension to be made admissible for a duration of 10 years after death of the individual, both in harness as well as after retirement.
ii. Special Family Pension at the rate of 80 percent of the last reckonable emoluments as against the existing level of 60 percent.

iii. Additional quantum of family pension with advancing age should commence at the age of 70 for JCOs/Other Ranks instead of 80 as prevails today.
iv. Inclusion of war injury element/disability element in computation of family pension for widows of ex-servicemen who were in receipt of war injury pension/disability pension and commutation of the war injury element/disability element, if already not done by the individual prior to his demise.

Enhanced Ordinary Family Pension

10.2.32 The Services have sought that the enhanced rate of ordinary family pension should be continued to be paid at a rate equal to service/ retiring pension and made admissible for a duration of 10 years after death of the individual, both in harness as well as after retirement. In addition, the existing cap of minimum service of seven years for being eligible for this pension be removed.

Analysis and Recommendations

10.2.33 The Commission has considered the issue. It notes that the regime of enhanced rate of ordinary family pension applies to both civil and defence pensioners. **No change is being recommended by the Commission for either civilian or defence pensioners.**

Special Family Pension

10.2.34 The Services have sought that the Special Family Pension be enhanced and be paid at the rate of 80 percent of last drawn reckonable emoluments from the existing rate of 60 percent. Increase in rate, it is contended, is justified as the widow is not extended government employment unlike widow of civilian Central Government servant, when the spouse dies in service.

Analysis and Recommendations

10.2.35 The recommendations of the Commission in relation to pay of defence forces personnel will lead to a significant increase in the pay drawn and therefore in the 'last pay drawn.' **No further increase in the existing rate of Special Family Pension is therefore recommended by the Commission.**

Additional Quantum of Family Pension with Advancing Age

10.2.36 The Services have sought a modification in the existing old age pension scheme for JCOs/ORs whereby the additional quantum of pension should commence at the age of 70 rather than the existing age of 80. The quantum of increase has also been sought to be raised upwards for various categories of old age pensioners.

Analysis and Recommendations

10.2.37 The scheme of additional pension and additional family pension with advancing age was introduced subsequent to recommendations of the VI CPC. The amount of pension for existing pensioners will be revised upwards in accordance with the fitment formula that has been prescribed by the Commission. **No further increase in the existing rate of additional**

pension and additional family pension with advancing age is therefore recommended by the Commission.

Inclusion of War Injury Element/Disability Element in Computation of Family Pension

10.2.38 War Injury Pension/Disability Pension for defence personnel on invalidment/ retirement/ superannuation has two elements- (i) service and (ii) war injury/disability. As per the existing orders on the death of the said personnel the widow is entitled to a family pension on account of the service element only. The demand is for continuance of the War Injury Pension/Disability Pension received by the personnel upon invalidment/retirement/ superannuation to the widow of the defence service personnel, in addition to the family pension fixed at 30 percent of reckonable emoluments. Commutation of the war injury element/ disability element, if already not done by the individual prior to his demise has also been sought.

10.2.39 The recommendations of the Commission in relation to pay of defence forces personnel will lead to a significant increase in the pay table and therefore in the 'last pay drawn'/ 'reckonable emoluments.' In view of the enhancement in pay the **Commission is not recommending any further change in the existing provisions with regard to inclusion of war injury element/disability element in the computation of family pension.** The demand made with the regard to commutation of war injury element/ disability element is also not being recommended.

Demands Relatingn to Disability and War Injury Pension

Disability Pension

10.2.40 The orders regulating grant of disability pension in the case of defence forces personnel are detailed in view of the circumstances in which they operate. Disability pension is granted in two broad categories- (a) Non Battle cases and (b) War Injury cases.

10.2.41 Armed forces personnel retired with disability attributable to or aggravated by such service and assessed at 20 percent or more are awarded disability pension. Those invalided out with any disability attributable to or aggravated by such service are also awarded disability pension.

10.2.42 The regime of disability element for non-battle cases has, over time, moved from fixed slab rates to one based on percentage of reckonable emoluments. This shift was recommended by the VI CPC.

10.2.43 **Non Battle Cases:** In Non Battle cases there are two categories–(i) Cases Attributable/ Aggravated to service and (ii) Cases Neither Attributable/ Nor Aggravatable to service. The manner in which these cases are being currently regulated is as under:

<table>
<tr><th></th><th colspan="2">Neither Attributable Nor Aggravated (NANA)</th><th>Attributable or Aggravated by Military Service</th></tr>
<tr><td>Invalided Out</td><td>Qualifying Service < 10 Years: Only Invalid Gratuity is paid.</td><td>Qualifying Service ≥ 10 Years: Invalid pension equal to 50% of last RE is being paid.</td><td>Disability Pension comprising (i) Service Element (SE) equal to 50% of last Reckonable Emoluments (RE) and Disability Element (DE) equal to 30% of last RE is paid for 100% disability. Determination of DE is done as per broadbanding principle which is as follows:
<table>
<tr><td>Percentage of Disability</td><td>Percentage of RE to be reckoned for DE</td></tr>
<tr><td>Less than 50</td><td>50</td></tr>
<tr><td>50-75</td><td>75</td></tr>
<tr><td>76-100</td><td>100</td></tr>
</table></td></tr>
<tr><td>Retired with Disability</td><td colspan="2">Pension equal to 50% of last RE is being paid.</td><td>Disability Pension comprising (i) Service Element (SE) equal to 50% of last RE and Disability Element (DE) equal to 30% of last RE for 100% disability is being paid. Determination of DE is done as per broadbanding principle, at rates above, for disability ≥ 20%. There is no DE for disability <20%.</td></tr>
<tr><td>Premature/ Voluntary Retirees</td><td colspan="2">Pension equal to 50% of last RE is being paid.</td><td>Disability Pension comprising (i) Service Element (SE) equal to 50% of last RE and Disability Element (DE) equal to 30% of last RE for 100% disability is being paid. For lesser percentage of disability, the amount of DE is reduced pro-rata. There is no DE for disability <20%.</td></tr>
</table>

10.2.44 **War Injury Cases:** Currently in War Injury cases there are two distinct categories- (i) those invalided out and (ii) those retained in service. In case of those invalided out the pension paid is 50 percent of reckonable emoluments, subject to a minimum of ₹7,020. This is in addition to 100 percent of reckonable emoluments for those with 100 percent disability and on pro rata basis for those with lesser disability. For personnel suffering war injury but who are retained in service, the pension paid out is 50 percent of reckonable emoluments in addition to 60 percent of reckonable emoluments for those with 100 percent disability and on pro rata basis for those with lesser disability.

10.2.45 The principal demands made before the Seventh CPC in respect of disability pensions as applicable for defence forces personnel were:

i. In the case of disability pension, an upward revision from the existing rate of 30 percent to 50 percent of last pay drawn, in cases of 100 percent disability.
ii. Enhancing the cover of Disability.
iii. Additional old age pension should be applicable for disability/ war injury pension.
iv. All cases of invalidment due to disability Neither Attributable Nor Aggravated (NANA) to service, be awarded Disability Pension.
v. Enhancement in the rate of war injury pension where individual is retained in service.
vi. Ex-gratia lump sum compensation to invalided out defence personnel.
vii. Ex-gratia award for 100 percent disability be made equal to the stipend being paid to Cadets.
viii. The need to empanel well established civil prosthetic centres so as to make facilities for good quality repairs and replacement of artificial limbs easily accessible.
ix. Ex-gratia lump sum compensation.

Enhancement of the Rate of Disability Pension

10.2.46 The Services have sought enhancement of the rate of disability pension for 100 percent disability from the existing level of 30 percent of the last drawn reckonable emoluments to 50 percent. For lower percentages of disability, the amount of disability element is sought to be pro-rated.

Analysis and Recommendations

10.2.47 The regime of disability element for non-battle cases has moved from fixed slab rates to a percentage of reckonable emoluments. The rates of disability element for 100 percent disability as admissible over the years, is indicated in the table below:

Rate of Disability Element for 100 Percent Disability (in ₹ per month)

<table>
<tr><th rowspan="2">Rank</th><th rowspan="2">Pre III CPC</th><th rowspan="2">After III CPC</th><th rowspan="2">After IV CPC</th><th rowspan="2">After V CPC</th><th colspan="2">After VI CPC</th></tr>
<tr><th>Pre 2006*</th><th>Post 2006@</th></tr>
<tr><td>Officers</td><td>170.00</td><td>200</td><td rowspan="2">750</td><td rowspan="2">2600</td><td rowspan="2">9,279- 27,000</td><td rowspan="2">8,100- 27,000</td></tr>
<tr><td>Honorary Commissioned Officers</td><td>142.50</td><td>170</td></tr>
<tr><td>Subedar Major</td><td>105.00</td><td rowspan="3">110</td><td rowspan="3">550</td><td rowspan="3">1900</td><td rowspan="3">4,764- 6,591</td><td rowspan="3">4,650- 12,900 (9867#)</td></tr>
<tr><td>Subedar</td><td>90.00</td></tr>
<tr><td>Naib Subedar</td><td>65.00</td></tr>
<tr><td>Havildar</td><td>48.00</td><td rowspan="2">60</td><td rowspan="3">450</td><td rowspan="3">1550</td><td rowspan="3">3,510- 4,899</td><td rowspan="3">3,138- 7,920</td></tr>
<tr><td>Naik</td><td>40.00</td></tr>
<tr><td>Sepoy</td><td>35.00</td><td>45</td></tr>
</table>

Notes: Rates as per Defence Pension Payment Instructions, CGDA

* The disability element shall not be less than 30 percent of minimum of fitment table for rank in revised pay structure issued for implementation of recommendation of VI CPC corresponding to pre revised scale held by armed forces personnel at time of retirement/discharge/ invalidment for 100 percent disability.

@ It is as per VI CPC pay structure as accepted by government for armed forces personnel.

While ₹34,800 is top of the scale for PB 2, the highest stage that an MWO has reached in the IAF is ₹24,690.

10.2.48 The ratio of maximum to minimum disability pension for officers and ORs across various points in time is detailed below:

	Pre III CPC	After III CPC	After IV CPC	After V CPC	After VI CPC
Ratio of maximum to minimum	4.85	4.44	1.66	1.67	8.60

10.2.49 The notable facts about the disability payout regime are:

a. There was a gradual rationalisation in the number of slabs from eight, prior to III CPC to three after the IV CPC.

b. The ratio of maximum to minimum quantum of compensation for disability across the ranks witnessed a decline from 4.85 prior to the III CPC to 1.67 post V CPC. As a consequence of the implementation of the recommendations of the percentage based system based on the VI CPC Report the ratio of the maximum to minimum was reversed and now stands at 8.60.

c. Implementation of the VI CPC recommendations resulted in a substantial increase in the disability element. For 100 percent disability, at the minimum level ie., for ORs, it went up from ₹1,550 to ₹3,138, ie., a little over double and at highest level amongst officers from ₹2,600 to ₹27,000, ie., by 10.38 times.

d. Disability pension consists of two elements viz., service element and disability element. While the service element was linked with the qualifying service, disability element was not. Therefore, for the same level of disability, the service officer invalided out and one who served on and retired in due course, got the same quantum of disability element.

10.2.50 To examine the recent trends in disability cases, the Commission sought data and further clarifications with regard to all cases of pensioners with disability element. The total number of pensioners superannuating with disability element, each year, from 2007-08 to 2013-14, as provided by the Controller General of Defence Accounts (CGDA) is tabulated below:

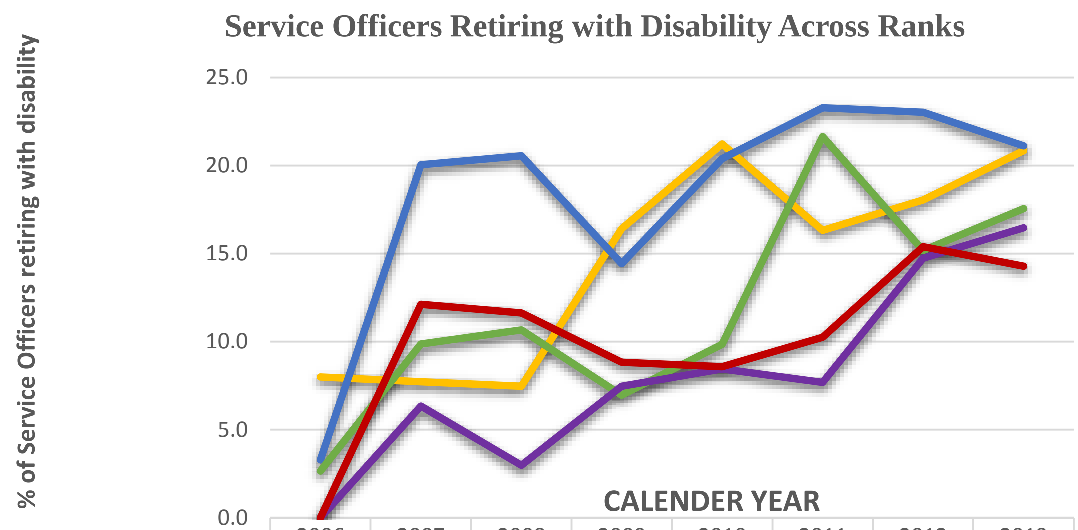
Financial Year	JCOs/ORs	Commissioned Officers	Total	Total JCO/OR Retirees	Total Officer Retirees
2007-08	9,355	285	9,640	49396	2096
	(18.9)	(13.6)	(18.7)		
2008-09	6,908	318	7,226	50913	2118
	(13.6)	(15.0)	(13.6)		
2009-10	2,644	284	2,928	39133	1712
	(6.8)	(16.6)	(7.2)		
2010-11	1,840	316	2,156	38209	1678
	(4.8)	(18.8)	(5.3)		
2011-12	4,765	321	5,086	48201	1626
	(9.9)	(19.7)	(10.2)		
2012-13	5,837	327	6,164	53446	1643
	(10.9)	(19.9)	(11.2)		
2013-14	4,037	318	4,355	55901	1606
	(7.2)	(19.8)	(7.6)		

10.2.51 From above data, the following trends are discernible:

a. As a percentage of the total officer retirees, the number of officers retiring with disability has increased in 2013-14, as compared to 2007-08 (13.6 percent to 19.8 percent).

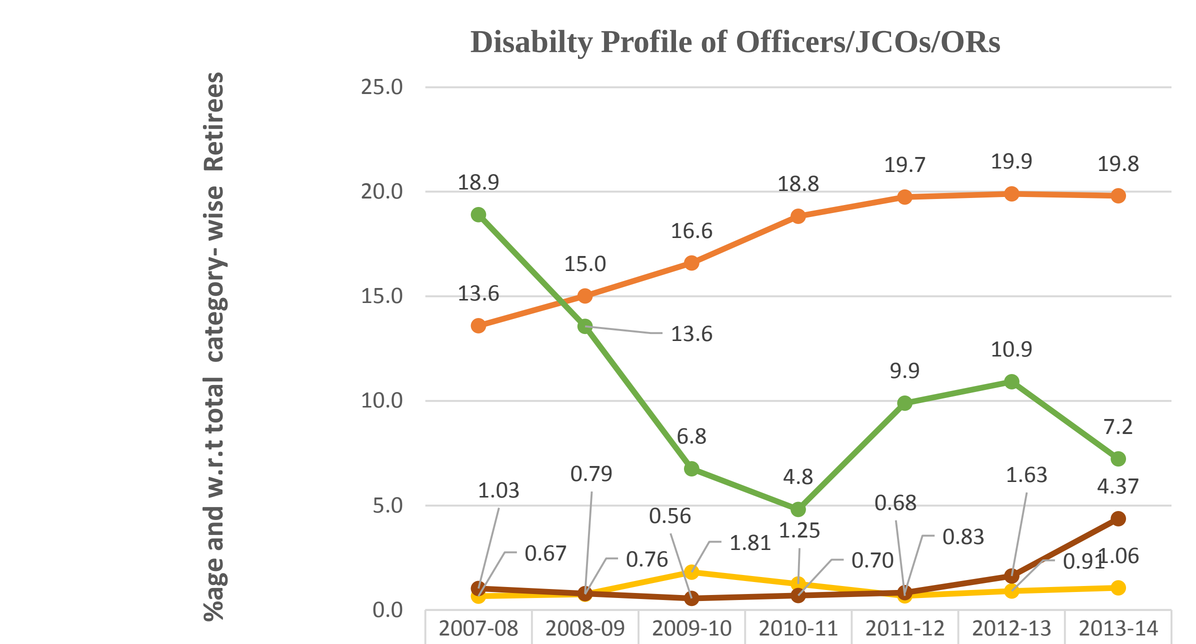
b. The percentage of JCOs/ORs retiring with disability is, on the other hand, decreasing (18.9 percent to 7.2 percent).

c. The percentage of officers retiring with disability is considerably higher than JCO/ORs retiring with disability.



	2006	2007	2008	2009	2010	2011	2012	2013
Lt. Colonel/Equivalent	8.0	7.7	7.5	16.4	21.2	16.3	18.0	20.8
Colonel/Equivalent	3.3	20.0	20.6	14.4	20.4	23.3	23.0	21.1
Brigadier/Equivalent	2.7	9.9	10.7	7.0	9.8	21.6	15.2	17.6
Major General/Equivalent	0.0	6.3	3.0	7.5	8.5	7.7	14.7	16.5
Lt. General/Equivalent	0.0	12.1	11.6	8.8	8.6	10.3	15.4	14.3

10.2.52 It is observed that there has been an upward trend in the personnel superannuating with disability element at senior levels.



	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
% Superanuated with Disability-Officers	13.6	15.0	16.6	18.8	19.7	19.9	19.8
% Invalided out-Officers	0.67	0.76	1.81	1.25	0.68	0.91	1.06
% Superanuated with Disability-JCOs/ORs	18.9	13.6	6.8	4.8	9.9	10.9	7.2
% Invalided out-JCOs/ORs	1.03	0.79	0.56	0.70	0.83	1.63	4.37

10.2.53 Data on personnel invalided out of service has also been made available to the Commission in respect of officers.

Officers Invalided Out

Year / Rank	2006	2007	2008	2009	2010	2011	2012	2013	2014
Major/equivalent	16	15	19	16	10	10	7	5	1
Lt Col/equivalent	12	15	14	18	13	4	4	4	1
Col/equivalent	10	9	5	5	10	3	3	0	1
Brig/equivalent	3	1	1	3	4	0	0	0	0
Major General/ equivalent	1	0	0	0	0	0	0	0	0
Lt General/ equivalent	0	0	0	0	0	0	0	0	0

10.2.54 While the number of officers retiring with disability element has shown a significant increase at levels of Brigadier and above in recent years, it is notable that since 2010-11, no officer in these ranks has been invalided out.

10.2.55 The feature that stands out when the historical evolution of the regime relating to disability pension is studied is the shift from slab based system to a percentage based disability pension regime consequent to the implementation of the VI CPC's recommendations. This move has been contrary to the tenets of equity insofar as treatment of disability element between Officers and JCOs/ORs is concerned borne out by the fact that the ratio of maximum to minimum quantum of compensation for disability across the ranks is now disproportionately high at 8.6. **The Commission is therefore of the considered view that the regime implemented post VI CPC needs to be discontinued, and recommends a return to the slab based system. The slab rates for disability element for 100 percent disability would be as follows:**

Rank	Levels	Rates (in ₹ per month)
Service Officers	10 and above	27,000
Honorary Commissioned Officers		
Subedar Major/ Equivalent	6 to 9	17,000
Subedar/ Equivalent		
Naib Subedar/ Equivalents		
Havildar/ Equivalents	5 and below	12,000
Naik/ Equivalents		
Sepoy/ Equivalents		

Enhancing the Cover of Disability

10.2.56 The Services have sought that disability element should be made admissible to personnel on retirement as well as invalidment in the event of his/her acquiring any amount of disability (presently Nil in case of Disability less than 20 percent) that is attributable to/ aggravated by military service or otherwise.

10.2.57 The issue of how disability element should be determined for personnel retiring with disability, as distinct from those being invalided out, has been the subject matter of judicial pronouncements in the recent past. In Ram Avatar vs Union of India, the Supreme Court has held that personnel retiring on attaining the age of superannuation or on completion of tenure of engagement, if found to be suffering from some disability which is attributable to/ aggravated by military service, would be entitled to the benefit of ‘rounding’ of disability pension for disability greater than 20 percent. The Commission has also noted that the government has decided to implement the benefit of broadbanding of disability (‘rounding’ of disability pension) w.e.f. 01.01.2015 for all eligible cases except premature cases/voluntary retirement cases. **The Commission, keeping in view the above, recommends broadbanding of disability for all personnel retiring with disability, including premature cases/ voluntary retirement cases for disability greater than 20 percent.** This will ensure uniformity in treatment of disability cases as far as determination of disability element is concerned and bring the regime at par with those invalided out for disability greater than 20 percent.

Additional old age Pension should be Applicable for Disability/War Injury Pension

10.2.58 The Services have sought that the clauses of additional old age pension be made applicable to both the elements of disability/war injury pension.

10.2.59 The scheme of additional pension and additional family pension with advancing age was introduced subsequent to recommendations of the VI CPC. The amount of pension for existing pensioners will be revised upwards in accordance with the fitment formula that has been prescribed by the Commission. **No further enhancement by inclusion of elements of disability/war injury pension is therefore recommended by the Commission.**

Neither Attributable Nor Aggravated (NANA) cases, be awarded Disability Pension

10.2.60 The Services have sought the discontinuation of Invalid Pension and Gratuity in all cases of invalidment due to disability Neither Attributable Nor Aggravated **(**NANA) by service; instead, they have sought award of Disability Pension for all such cases.

10.2.61 As per existing regulations in cases of disability Neither Attributable Nor Aggravated **(**NANA) by service for personnel with less than ten years' service the individual is entitled to invalid gratuity only, payable at half a month's last drawn reckonable emoluments plus dearness allowance for every six months of service. Those having more than ten years of service are entitled to invalid pension payable at fifty percent of last reckonable emoluments. The Commission, taking note of the legal position settled by the Supreme Court, is of the view that a member of the armed forces is presumed to be in a sound physical and mental condition at the time of his entry into the service if there is no note or record to the contrary made at the time of such entry. Therefore in the event of his subsequent discharge from service on medical grounds any deterioration in his health is presumed to be attributable to military service. **The Commission therefore recommends that while the existing regulations involving disability Neither Attributable Nor Aggravated (NANA) by service may continue, it is for the authorities to establish, in each case, through a reasoned order that disability was Neither Attributable Nor Aggravated (NANA) by military service.**

War Injury Pension where Individual is Retained in Service

10.2.62 For cases of war injury where the individual is retained in service, the Services have sought that the war injury element should be enhanced and awarded at the rate of 80 percent of last drawn reckonable emoluments for 100 percent disability. For lesser percentage of disability, the amount of disability element be reduced pro-rata.

10.2.63 The Commission notes that the war injury element as per existing regime is calculated at 60 percent of the last drawn reckonable emoluments for cases of 100 percent disability. For lower percentages of disability, the amount of Disability Element is reduced pro-rata. The pay of all defence forces personnel as per the recommendations of the Commission are being enhanced. This will itself translate into enhancement of payout to those retiring with war injury and retained in service. **In view of the foregoing the Commission does not recommend any change in the existing regime of payouts for those with war injury and retained in service.**

Ex-gratia Lump Sum Compensation to Invalided out Defence Personnel

10.2.64 The Services have sought application of broad banding principle for determining the extent of disability for payment of Ex-gratia award to service personnel boarded out on account of disability/war injury attributable to or aggravated by military service.

10.2.65 The existing orders involve payment of ex-gratia lump sum compensation of ₹9 lakh for 100 percent disability. For disability/war injury lower than 100 percent but not less than 20 percent, the amount of ex-gratia compensation is proportionately reduced. No ex-gratia compensation is payable for disability/war injury less than 20 percent. **The Commission is recommending an increase in the existing lump sum compensation of ₹9 lakh for 100 percent disability to ₹20 lakh. However it finds no justification to recommend broad banding for payment of Ex-gratia award to service personnel boarded out on account of disability/war injury attributable to or aggravated by military service.**

10.2.66 The Services have sought enhancement of ex-gratia disability award equal to stipend paid to cadets from the existing ₹6,300 per month for 100 percent disability. In support of their demand it has been contended that training of cadets is extremely demanding and a cadet is susceptible to injuries. Therefore there is a need to indemnify a cadet against any disability which may occur during the period of training.

10.2.67 The Commission notes that cadets are not considered on duty during training and therefore cannot be treated at par with serving defence forces personnel. **The Commission, however, keeping in views the facts relating to cadets recommends an increase ex-gratia disability award from the existing ₹6,300 per month to ₹16,200 per month for 100 percent disability**.

Empanelment of Well-established Civil Prosthetic Centres

10.2.68 In the case of pensioners with disabilities one of the submissions made before the Commission was that all disabled ex-servicemen have to travel to Artificial Limb Centre (ALC), Pune for repair and replacement of their prosthetic fittings. In addition to ALC there are only five sub-centres in the entire country and they are ill-equipped and unable to carry out even minor repairs. A case has therefore been made for empanelment of well-established civil prosthetic centres to make facilities for good quality repair and replacement of artificial limbs easily accessible to disabled ex-servicemen.

10.2.69 **In view of the hardships faced by disabled ex-servicemen the Commission recommends that the government may empanel well established civil prosthetic centres where retired pensioners can avail the facility.**

Ex-gratia Lump Sum Compensation

10.2.70 The Commission has received representations seeking enhancement in *Ex-gratia* lump sum compensation for Next of Kin (NoK) of CAPF, Assam Rifles and defence forces personnel who die in harness in performance of their bona fide official duties.

10.2.71 The circumstances in which the *Ex-gratia* lump sum compensation is currently admissible and the quantum in each category are as under:

Sl. No.	**Circumstances**	**Quantum (₹)**	**Remarks**
1.	Death occurring due to accidents in course of performance of duties	10 lakh	Identical provisions for Defence and CAPF personnel
2.	Death in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements etc.	10 lakh	
3.	Death occurring in border skirmishes and action against militants, terrorists, extremists, etc.	15 lakh	Provision for CAPF personnel
	Death occurring in enemy action in international war		
4.	Death occurring while on duty in the specified high altitude, inaccessible border posts, etc on account of natural disasters, extreme weather conditions	15 lakh	Identical provisions for Defence and CAPF personnel
5.	Death occurring during enemy action in international war or such war like engagements, which are specifically notified by Ministry of Defence	20 lakh	Applicable only for Defence forces personnel

10.2.72 As may be seen, there are four circumstances listed for payment of *Ex-gratia* lump sum compensation in case of Next-of-Kin (NoK) for CAPF/Assam Rifles personnel while there are five circumstances listed for such payout to NoK in the case of defence forces personnel.

10.2.73 The Ministry of Home Affairs has sought the doubling of *Ex-gratia* lump sum payable to the Next of Kin (NoK) of CAPF and Assam Rifles personnel from the existing ₹10 lakh to ₹20 lakh and from the existing ₹15 lakh to ₹30 lakh, depending on the circumstances.

10.2.74 The Defence Services, in their memorandum, have sought quadrupling of the amount of lump sum compensation. They have also suggested inclusion of some additional categories in the list of identified circumstances in which *Ex-gratia* lump sum compensation is paid. The proposal of the Services in this regard is summarised below:

Sl. No.	Circumstances	Existing (₹)	Sought (₹)	New Categories proposed by the Services
1.	Death occurring due to accidents in course of performance of duties.	10 lakh	40 lakh	-
2.	Death in the course of performance of duties attribute to acts of violence by terrorists, anti-social elements etc.	10 lakh	40 lakh	-
3.	Death occurring in border skirmishes and action against militants, terrorists, etc.	15 lakh	60 lakh	Death occurring in action against sea pirates
4.	Death occurring while on duty in the specified high altitude, inaccessible border posts, etc on account of natural disasters, extreme weather conditions.	15 lakh	60 lakh	Death occurring while on duty in fire/blasts/explosions on board ships/submarines/aircrafts, death while handling the indigenised weapons/machinery and on account of natural disasters, extreme weather/sea conditions
5.	Death occurring during enemy action in international war or war like engagements, specifically notified by Ministry of Defence.	20 lakh	80 lakh	Death occurring during evacuation of Indian Nationals from a war-torn zone in foreign country etc.

Analysis and Recommendations

10.2.75 The Commission has considered the existing regime regulating the *Ex-gratia* lump sum compensation and the demands made before the Commission and observes that while the set of circumstances in which defence forces personnel and those in CAPFs and Assam Rifles are accorded *Ex-gratia* payment are broadly similar, some variations do exist. In this regard, the Commission is of the view that as far as possible these should apply identically to all the personnel covered by these orders.

10.2.76 As regards the new categories sought to be added by the Defence Services to the existing circumstances, the Commission recommends the following:

Addition asked for	Recommendation
Death occurring while on duty in fire/ blasts/explosions on board ships/ submarines/ aircrafts	Not recommended for inclusion as a separate category. It may be included in the existing circumstance 'Death occurring due to accidents in course of performance of duties'
Death occurring in action against sea pirates	May be included in the existing circumstance 'Death occurring in border skirmishes and action against militants, terrorists, extremists'
Death while handling the indigenised weapons/machinery	Not recommended for inclusion as a separate category. It may be included in the existing circumstance 'Death occurring due to accidents in course of performance of duties'
Death on account of natural disasters, extreme weather/sea conditions	Not recommended for inclusion as a separate category. It may be included in the existing circumstance 'Death occurring due to accidents in course of performance of duties'
Death during evacuation of Indian Nationals from a war-torn zone in foreign country etc.	May be included in the existing circumstance 'Death occurring during enemy action in international war or such war like engagements, which are specifically notified by Ministry of Defence.'

10.2.77 **The Commission recommends a common regime for payment of Ex-gratia lump sum compensation for civil and defence forces personnel, payable to the Next of Kin at the following rates:**

(₹ in lakh)

Circumstances	Existing	Proposed
Death occurring due to accidents in course of performance of duties.	10 lakh	25 lakh
Death in the course of performance of duties attribute to acts of violence by terrorists, anti-social elements etc.	10 lakh	25 lakh
Death occurring in border skirmishes and action against militants, terrorists, extremists, sea pirates	15 lakh	35 lakh
Death occurring while on duty in the specified high altitude, inaccessible border posts, on account of natural disasters, extreme weather conditions	15 lakh	35 lakh
Death occurring during enemy action in war or such war like engagements, which are specifically notified by Ministry of Defence# and death occurring during evacuation of Indian Nationals from a war-torn zone in foreign country	20 lakh	45 lakh

 # If any CAPF/ Assam Rifles/ Coast Guard personnel is killed in an area notified by Ministry of Defence in war or such war like engagements, the Next of Kin in his case shall receive the same ex-gratia lump sum as NOK of defence personnel in the same circumstances.

Parity in pension between pre and post Seventh CPC defence forces retirees

10.2.78 The differential in pension between past and new retirees from the defence forces has been an issue that has engaged the attention of the government and various Parliamentary Committees. A number of committees and bodies have been appointed to examine the issue. This differential arises on account of the fact that computation of pension depends upon the pay scale of the person at the time of retirement. With the passage of time and revision of pay scales by successive Pay Commission, the pay and therefore the pension, of those retiring in later years undergoes a change.

10.2.79 The Estimates Committee (1980-81), in its report on resettlement of Ex-Servicemen, noted that the disparity in pension between past and present pensioners of equal rank was inequitable and recommended that the matter should be examined and a just solution found.

10.2.80 The IV CPC, on the other hand, observed that the amount of pension undergoes changes as and when the pay scales are revised. Any attempt to equalise pension with reference to revised scale of pay would, in fact, amount to the retrospective application of these scales of pay.

10.2.81 In 1991 the government set up a High Level Empowered Committee which recommended a One Time Increase (OTI) in pension from 01.01.1992. All pre-1973 pensioners (JCOs/ORs/ Commissioned officers) were brought to the level of post-1973 retirees. Graded addition with reference to post-1973 rates of pension was also made to determine OTI in rates to bridge the gap to some extent up to post 1986 level.

10.2.82 The V CPC, after taking into account the historical background including the recommendations of High Level Committees, recommended that total parity may be brought between pre 01.01.1986 and post 01.01.1986 retirees. Thereafter, for all pre 01.01.1996 retirees, their pension was consolidated as per the specified fitment formula. If the resultant figure fell short of the pension applicable to the post 01.01.1996 retirees for the same rank, it was to be stepped up to the minimum pension prescribed for the same rank (Para 165.8). It went on to state that every Pay Commission gives certain benefits in pay which are over and above the impact of inflation, either due to upgradation of recruitment qualifications or change in job contents. The benefits accorded on this account need not necessarily be passed on to the pensioners. Thus, the additional benefits suggested by them for future pensioners would not be fully available to the pre 01.01.1996 retirees. It, however, recommended partial parity known as **modified parity** in respect of pre and post–01.01.1996 pensioners. This provided that in case the revised consolidated pension of a person was less than 50 percent of the minimum of the revised pay scale, it would be stepped up to that level.

10.2.83 The Commission notes that a number of improvements have been brought about aimed at narrowing the gap between past and current pensioners. These include:

a. All pre 1997 PBOR pensioners have been brought at par with post 1997 pensioners.
b. Pension of all pre 2006 PBOR pensioners has been reckoned with reference to notional maximum pay in post 01.01.2006 revised pay structure corresponding to the maximum pre VI CPC pay scales as per fitment table of each rank with enhanced weightage awarded by the group of Ministers.
c. A separate pay scale of ₹67,000–79,000 was created to address the issue of disparity in pension of pre and post 01.01.2006 pensioners at the level of Lieutenant General and equivalent in the other two services to enable them to get pension at the rate of ₹36,500 and

d. Linkage of full pension with 33 years of qualifying service has been removed w.e.f. 01.01.2006 instead of 01.09.2008 in case of commissioned officers.

10.2.84 **Pension payout to defence forces personnel over time:** The evolution of the pension regime over time and the role of the Judiciary in settling the law on the subject has been detailed in Chapter 10.1. There is clear evidence that governments have, over time, progressively moved towards a liberalised regime for past pensioners. The VI CPC has further provided for additional pension with advancing age. In the case of defence forces personnel particularly, a number of improvements have been effected after implementation of the VI CPC recommendations. Two Committees were set up, one in 2009 and another in 2012, under the Chairmanship of the Cabinet Secretary. Based on recommendations made by them, changes in the pension rules were notified in years 2010 and 2013. Each notification went a step further in bridging the gap between pre 2006 and post 2006 pensioners. What this has effectively translated into is testified by examples of pension fixation of defence forces personnel across groups who have retired in the past decades. For example, a Lt Colonel (in GP of ₹8,000 in VI CPC, retired on 31 July, 1990 with a basic pension of ₹2,703 per month. The basic pension got revised to ₹7,550 and ₹25,700 per month after implementation of the V and VI CPC respectively. The basic pension was further revised in September 2012 to ₹26,265. With the benefit of dearness relief[39], the pensioner is on date entitled to total pay out in terms of pension and dearness relief of ₹57,520 per month. Similarly, a Subedar (in GP of ₹4600 in VI CPC, retiring on 30 June, 1991 with a basic pension of ₹1,300 per month got revised to ₹6,188 and ₹9,325 per month after implementation of the V and VI CPC respectively. After further revision, the basic pension of the Officer was fixed at ₹11,970 per month. With the benefit of dearness relief, the pensioner is on date entitled to total pay out in terms of pension and dearness relief of ₹26,214 per month.

10.2.85 The illustrations point to a substantial increases in pension, across various categories of defence pensioners.

10.2.86 **Recommendations:** The concept of pension, so far as Civilian employees including CAPFs are concerned, has undergone a complete change. Entrants on or after 01.01.2004 on the civilian side are covered under the National Pension System. In the case of defence forces personnel however, the government has continued with the Defined Benefits pension regime. This regime, as far as past pensioners is concerned, has also witnessed significant improvements with a view to establishing parity between old and new pensioners. The Commission has dwelt on the judicial pronouncements regulating the regime of pensions in detail in Chapter 10.1.

10.2.87 **The Commission recommends the following with regard to fixation of pension for past defence forces personnel retirees:**

i. All the Defence Forces who retired prior to 01.01.2016 (expected date of implementation of the Seventh CPC recommendations) shall first be fixed in the Pay Matrix being recommended by this Commission, on the basis of the

[39] Dearness Relief of 119 percent, as effective from 1 July, 2015.

Pay Band and Grade Pay at which they retired, at the minimum of the corresponding level in the matrix. This amount shall be raised to arrive at the notional pay of the retiree by adding the number of increments he/she had earned in that level while in service, at the rate of three percent. Military Service Pay shall be added to the amount which is arrived at after notionally fitting him in the Seventh CPC matrix. Fifty percent of the total amount so arrived at shall be the revised pension.

ii. **The second calculation to be carried out is as follows. The pension, as had been fixed at the time of implementation of the VI CPC recommendations, shall be multiplied by 2.57 to arrive at an alternate value for the revised pension.**

iii. **Pensioners shall be entitled to the higher of the two.**

It is recognised that the fixation of the pension as per the above formulation (i) above may take a little time since the records of each pensioner will have to be checked to ascertain the number of increments earned in the retiring level. It is, therefore, recommended that in the first instance the pension, may be fixed in terms of formulation (ii) above, till final fixation of the pension under the Seventh CPC matrix is undertaken.

10.2.88 **Illustration on fixation of pension for defence forces personnel based on recommendations of the Seventh CPC**

Case I

10.2.89 Pensioner 'A' retired at last pay ₹46,310 in PB-4 with GP 8700 on 31 March, 2006 under the VI CPC regime, having drawn one increment in the V CPC pay scale ₹15,100-450-17,350.

		Amount in ₹
1.	Basic Pension fixed in VI CPC	30,505
2.	Initial Pension fixed under Seventh CPC (using a multiple of 2.57)	78,398 Option 1
3.	Minimum of the corresponding pay level in 7 CPC	1,25,500
4.	Notional Pay fixation based on one increment	1,29,300
5.	Notional Pay after adding Military Service Pay of ₹15,500	1,44,800
6.	50 percent of the notional pay in pay level so arrived and Military Service Pay	72,400 Option 2
7.	Pension amount admissible (higher of Option 1 and 2)	78,398

Case II

10.2.90 Pensioner 'B' retired at last pay ₹13,100 in GP 2800 on 31 May, 2015 under the VI CPC regime, having drawn two increments in PB-1.

		Amount in ₹
1.	Basic Pension fixed in VI CPC	8,950
2.	Initial Pension fixed under Seventh CPC (using a multiple of 2.57)	23,002 Option 1
3.	Minimum of the corresponding pay level in 7 CPC	35,400
4.	Notional Pay fixation based on 2 increments	37,600
5.	Notional Pay after adding Military Service Pay of ₹5,200	42,800
6.	50 percent of the notional pay in pay level so arrived and Military Service Pay	21,400 Option 2
7.	Pension amount admissible (higher of Option 1 and 2)	23,002

National Pension System — Chapter 10.3

Introduction

10.3.1 Pension has been one of the key Terms of Reference (TORs) for successive Pay Commissions. While the VI CPC was the first Pay Commission to have been constituted after the introduction of the National Pension System (NPS) which came into effect on 01.01.2004, the VII CPC is the first one to be constituted after some experience has been gained on this count.

Pension Related TOR of the Commission

10.3.2 The TOR of the present Commission - *to examine the principles which should govern the structure of pension and other retirement benefits, keeping in view that retirement benefits of all Central Government employees appointed on and after 01.01.2004 are covered by the National Pension System (NPS)*–limits the mandate of this Commission only to the Old Pension System (OPS). However, during its interaction with staff associations and other stakeholders, the Commission received many grievances/suggestions relating to both the OPS and the NPS. It has also been averred, inter alia, that NPS is proving to be an impediment in attracting and subsequently retaining the best talent for the Central Civil Services/All India Services (AIS). In this backdrop, the Commission decided to address the grievances related to NPS, which have been discussed in this chapter. Issues relating to OPS and other retirement benefits have been dealt in Chapter 10.1 and Chapter 10.2.

NPS Background

10.3.3 The Commission notes that the NPS is the culmination of a series of social security and pension related reform initiatives in India. As in many other countries, pension reforms in India were driven by the fiscal constraints of supporting a public pension system and the longer-term problems of an ageing population. Government of India, in 1998, set up the Committee for Old Age Social and Income Security (OASIS). The OASIS committee concluded, among other things, that the Defined Benefit Scheme (DBS), serving the Central Government retirees, is unaffordable for government and it should be replaced by a Defined Contribution Scheme (DCS).

10.3.4 The Commission notes that the total pension liability on account of Central Government employees had risen from 0.6 percent of GDP (at constant prices) in 1993-94 to 1.66 percent of GDP (at constant prices) in 2002-03. Pension expenditure of the Central Government grew at a compound annual growth rate (CAGR) of 21 percent during the period 1990 to 2001. This was also reflected in the increasing fiscal deficits. Further, in the DBS, pensions were wage indexed, and thus the outgo on this account would have increased manifold. The stressed fiscal situation, thus, set the stage for introduction of the NPS in India. The Bhattacharya Committee

Report (HLE Group on NPS) (Feb 2002) recommended that an unfunded Defined Benefit (DB), Pay As You Go (PAYG) scheme or a pure Defined Contribution (DC) scheme would not be suitable and therefore recommended a hybrid DB/DC scheme to meet the requirements of central civil servants.

International Experience on Pension Reforms

10.3.5 Pension reforms, in recent times, have been initiated in many countries across the world. The Commission notes that an aging population, changing social structures, uncertain and inadequate social security benefits and rising fiscal liabilities have been the major causes behind pension reforms, especially for a transition from DBS to DCS.

Introduction of NPS

10.3.6 On the basis of various reports, the Central Government made the decision to place all new recruits into Central Government from 01.01.2004 onwards (excluding Defence Forces) under NPS. NPS is managed by the Pension Fund Regulatory and Development Authority (PFRDA), which was initially set up as an interim authority. The PFRDA Act was passed by Parliament and notified w.e.f. 01.02.2014, bestowing statutory status on the authority.

NPS Features

10.3.7 Under the NPS, employees contribute 10 percent of their monthly salary (basic plus DA) towards their pension with matching contribution from Central Government. In respect of the AIS officers working under them, the matching contribution is made by the State Governments. Three professional Pension Fund Managers invest the funds under NPS following an asset allocation framework mandated by government. The Central Record Keeping Agency (CRA) maintains a separate pension account for each individual employee identified by a unique Permanent Retirement Account Number (PRAN). Individual employees have been given online access through the CRA website to view the status of their pension wealth.

10.3.8 Under the NPS, upon superannuation, the individual is required to invest at least 40 percent of pension wealth for purchase of annuity and the remaining up to 60 percent is paid to him as lump sum. The annuity provides for pension for the lifetime of the employee. Individual subscribers to the NPS are not covered under the General Provident Fund. Regulations issued by the PFRDA now provide for partial withdrawals up to 25 percent of the contribution made by the subscriber to his individual account after at least ten years from the date of joining, up to a maximum of three times during the tenure of the subscription for certain specified purposes, before superannuation. The regulations issued by PFRDA also provide that if the employee dies in service, then at least 80 percent of the accumulated pension wealth shall be mandatorily utilized for purchase of annuity and the balance amount would be paid to the nominee(s)/legal heirs.

Performance of the NPS

10.3.9 Over 13 lakh Central Government subscribers have accumulated pension wealth of over ₹24,000 crore by the end of 2013-14. The Compound Annual Growth Rate (CAGR) of returns on the scheme are tabulated below:-

(in percent)

Year	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
CAGR (Central Govt.)	12.02	12.06	10.72	9.41	9.95	9.10	9.11

10.3.10 The Commission further notes that all State Governments (with the exception of Tripura and West Bengal) have switched to NPS on the Central Government pattern.

Grievances against the NPS

10.3.11 The NPS has now been in effect for over 10 years. During this period, there has been perceptible progress in putting together the architecture and providing information to subscribers. Major concerns, however, remain. Broadly, these are as under:

i. The larger federations and staff associations advocated scrapping the NPS on the ground that it discriminates between two sets of government employees.

ii. Individuals covered under NPS have pleaded for reverting to the OPS on the grounds of uncertainty regarding the actual value of their future pension in the face of market related risks.

iii. Individuals have pointed out that under NPS, the effective salary becomes less since the employee has to mandatorily contribute 10 percent of pay towards the pension fund.

iv. Individuals have stated that grievance redressal facility is not effective and consultation with stakeholders has been non-existent. This communication gap has generated insecurity in the minds of stakeholders including staff and Group 'A' officers of Central Government as well as All India Service Officers.

v. Associations have complained that Family Pension after the death of the employee is not ensured in the NPS. Moreover, if an employee dies at an early age, the family would suffer since annuity from the contribution would be grossly inadequate.

vi. Individuals have complained that NPS subscribers have no recourse to GPF for their savings. Their personal savings (10% of salary) are considered part of a larger corpus. It has been pointed out that the right approach would be to consider only government's contribution and the returns earned on it as the effective amount available for purchase of annuities.

vii. Associations have pointed out that unlike the facility under GPF, it is not possible to take refundable advances under NPS, even to meet obligatory social expenditure. This forces employees towards increased indebtedness as they have to borrow from elsewhere.

viii. Grievances also relate to tax treatment under NPS. While contributions and accumulations in NPS are exempt, lump sum withdrawals from NPS at any time are taxable at par with any other income. In addition, there is a service tax liability on any amount utilised for purchase of annuity.

ix. It has been pointed out that though NPS became effective from 2004, detailed instructions were issued only in late 2009 and in many cases the credit of contributions began from 2012. In the case of AIS officers in some States, contributions by the concerned State Government are yet to be fully made and deployed. The net result of this has been that contributions for the period 2004-2012 have not been made in full or have earned simple interest and did not get any market linked returns. Because of the prevailing confusion, contributions made by some AIS officer have been returned to them without interest. This will have a huge impact on the eventual corpus as the benefits of compounding were not available for the first 8 -9 years.

x. Individuals, in their presentation before the Commission, stated that annuities under NPS have no compensation for inflation unlike dearness relief under OPS. Further, in the case of OPS there is a revision in basic pension itself after every Pay Commission. This too is not available in respect of annuity of NPS subscribers.

xi. It has been pointed out that government employees are not given freedom of choice in choosing their fund manager based on performance and track record as the contributions are divided in a pre-specified ratio among selected Pension Fund Managers. It has been stated that government employees have no say in asset allocation of their money.

xii. Concerns were raised that the contribution of 10% + 10% will not be sufficient to create a corpus which provides reasonable assurance that pension will be 50 percent of the last pay drawn.

Analysis of the Issues by the Commission

10.3.12 The Commission has examined these concerns raised by the stakeholders. The Commission also interacted with Chairman, PFRDA, and representatives of the Department of Pensions and Pensioners Welfare (DPPW), Department of Personnel and Training (DoPT), Department of Expenditure (DoE) and the Department of Financial Services (DFS).

10.3.13 In so far as the future value of pension under NPS is concerned, the Commission notes that this would depend upon a combination of factors: (i) performance of the invested fund, which in turn would depend on the asset mix of the investment and general economic situation of the country, (ii) cost of financial intermediation, (iii) contribution rates, (iv) period of contribution, (v) performance of the fund manager and (vi) development of the annuity market.

Analysis of the Asset Mix of Investments

10.3.14 On asset mix of the investment, the pension funds, the world over, are invested in different assets including government and corporate bonds, equities, foreign securities etc. government bonds are generally the lowest risk and lowest yield. Corporate bonds and equities are higher risk and higher yield. Typically, systems use a mix of at least two types of assets– Government Bonds and Corporate Bonds/Equities.

10.3.15 As per the investment guidelines stipulated by the government for Central Government employees under NPS, up to 55 percent can be invested in government bonds, up to 40 percent in corporate debt securities, up to 15 percent in equities and up to 5 percent in money market instruments. International experiences on asset mix vary across countries which have adopted the DCS.

10.3.16 The Commission notes that an innovative approach to investment under the DCS is the Life Cycle Approach. Under this, the asset mix of each individual changes based on his/her age. The underlying assumption under this approach is that younger workers are better able to absorb year on year volatility and therefore can undertake risk while older workers should reduce risk as they approach retirement.

10.3.17 A carefully selected asset mix is the sine qua non to higher returns. **The Commission recommends that the investment choices under NPS be calibrated on a life cycle approach and the choices be offered in a simple manner so that any lay person can understand and act accordingly. The Commission also recommends that government, in consultation with PFRDA, come up with different options for investment mix and provide subscribers a range of options.**

Contribution Rates

10.3.18 In DCS, typically, the employees as well as the employers contribute towards a pension fund. As discussed earlier, the quantum of pension payouts would also depend upon the contribution rates. Higher the contribution rate, better would be the pension payouts. The contribution rates for both the employees and the employers vary across the globe. The Commission has received suggestions that the government's contribution should be enhanced from the present 10 percent in aid of a higher payout under the NPS. Associations and individuals have made presentations before the Commission highlighting that forecasts suggest that a 10 percent contribution from government will not be adequate to provide reasonable post retirement financial security in all cases. **The Commission, therefore, recommends that this important aspect should be re-examined in detail by an expert body for making course corrections if required.**

Period of Contribution

10.3.19 The Commission notes that time is of the essence in building up a reasonable corpus and ensuring that effects of compounding are significant. It is therefore essential that contributions by individuals and corresponding contributions by government are made in time, and more importantly, are deployed without any loss of time. Any delays in this respect, particularly in the initial years can have a large impact on the eventual corpus.

2004-2011 Entrants

10.3.20 Government employees who have joined service between 2004 and 2011 have suffered due to delay in finalizing the structure of the NPS and the issue of detailed instructions. Although they have made regular contributions, in many cases, this money and/or counterpart contributions were not deployed in the market. In the case of AIS officers, some states are yet to release counterpart contributions or pay interest on delayed contributions. This has led to a situation where the accumulated corpus even after 11 years of service could be meagre. It is necessary that this situation which arose during the transition from OPS to NPS be addressed. **The Commission therefore recommends that Central Governments and State Governments should, in a time bound manner, ensure that all the due contribution along with compounded interest, where contributions have been delayed, be deposited in the accounts of the beneficiaries. Advisories should be issued to the State Governments to deposit amounts, if not already done, in respect of NPS beneficiaries belonging to All India Services.**

10.3.21 Many Association have pointed out that unlike the facility under GPF, it is not possible to make withdrawals under NPS, even to meet obligatory social expenditure. This forces employees towards increased indebtedness as they have to borrow from elsewhere.

10.3.22 The Commission notes that under the NPS Tier-I account, a subscriber is permitted to make partial withdrawal of twenty five percent of the contributions made to his/her individual pension account for certain specified purposes. Such withdrawals are permitted a maximum of three times during the entire tenure of subscription and a period of at least five years should have elapsed between two such withdrawals.

10.3.23 The Commission further notes that there exists a voluntary Tier-II account. Under this account, a subscriber can, at any time, withdraw the accumulated wealth either in full or part and there is no limit on such withdrawals provided the account has sufficient balance of accumulated pension wealth to cover the amount being withdrawn. However, the Tier-II account is yet to be made operational. **The Commission therefore recommends that PFRDA should take steps to make the Tier-II accounts operational as early as possible to enable the NPS subscribers the facility of withdrawals from their accounts in case of requirement.**

Transparency under NPS

10.3.24 Many associations and individuals have complained that the information relating to the NPS is inadequate, resulting in high degree of uncertainty in the minds of contributors about post-retirement benefits. The Commission noted that PFRDA sends a communication to every participant each month with the current pension wealth and the latest contribution that has been credited. **The Commission recommends that focused efforts be made to capture email addresses and mobile numbers of subscribers so that seamless communication is ensured for all subscribers. The Commission recommends that consultation with stakeholders should also be held periodically in different parts of the country.**

10.3.25 The Commission notes that no department of Government of India is taking ownership of the NPS. **The Commission recommends that a Committee consisting of Secretary, Department of Financial Services, Secretary, Department of Pensions and Pensioners Welfare and Secretary, Department of Administrative Reforms and Public Grievances may be constituted to review the progress of implementation of NPS. The Commission**

also recommends that steps should be taken for establishment of an Ombudsman for redressing individual grievances relating to NPS.

Tax Treatment under the NPS

10.3.26 NPS is under the Exempt–Exempt - Tax (EET) regime while the General Provident Fund under the OPS is under Exempt–Exempt–Exempt (EEE) dispensation. Under the NPS, while the contributions and the accumulations are tax-exempt, withdrawals are taxable. As such, this is an inferior tax treatment when compared to other pension programmes such as General Provident Fund, Contributory Provident Fund, Employees Provident Fund and Public Provident Fund wherein contributions, accumulations and withdrawals are tax-exempt. **The Commission feels that tax neutrality should be ensured across various avenues for long term savings for post retirement incomes so that the employees covered by NPS are not at a disadvantage. The Commission therefore recommends that withdrawals under the NPS should be tax-exempt to place NPS at par with other pension schemes. The Commission also recommends that the service tax levied at the time of annuity purchase by NPS subscribers should be exempted.**

Issue of Family Pension In Case Of Death of the Subscriber

10.3.27 Another complaint received by the Commission from staff associations and individuals is that Family Pension after the death of the employee is not ensured in the NPS. The Commission notes that the government had provisionally extended benefits under the Central Civil Service (Extraordinary Pension) Rules, Family Pension/Extraordinary Family Pension/Liberalised Pensionary Award to government servants appointed on or after 01.01.2004.

10.3.28 Rules regulating these benefits have now been notified by the PFRDA. PFRDA regulations provide for an exit option from NPS in case of premature death of the subscriber by availing of additional relief from government, in which case the entire accumulated pension wealth inclusive of subscriber's contribution would be transferred to government. **The Commission recommends notification of a scheme by government for provision of additional relief in such cases consequent to exit from NPS.**

Framing of Rules and Regulations

10.3.29 The Commission notes that rules and regulating relating to NPS are being framed and notified by PFRDA from time to time. Associations and individual officers have raised the issue of the need for greater involvement of stakeholders in finalizing these regulations **The Commission recommends that government encourage the PFRDA to set up a strong consultative mechanism involving the DPPW, DoPT, DFS and some associations of employees for a review of regulations and for finalizing future regulations to bring clarity and remove uncertainty relating to NPS. The Commission also recommends that draft regulations should be widely publicized to enable subscribers to respond to any proposed changes, as normally done by other regulatory authorities.**