

“The Past Policies have Future Implications”

Somya Virk
Symbiosis Law School, Pune

ABSTRACT

Our borders are protected by the military but what happens to those who protect us, isn't their financial security the duty of the state. The fiscal viability, the bias towards civil servants, the lack of initiative and empathy has resulted in protests by the veterans all over the country. This article will introduce the concept of One Rank One Pension, and critically analyse both sides of the argument and historical background of this public policy. International comparisons and judicial perspective have been included to give a practical application and to analyse the repercussions caused by implementation of this policy. Towards the end, suggestions have been given which will help restore the respect of veterans, release the economy of financial strain and will also ensure that this public policy helps to uplift India's position as a military power.

INTRODUCTION

The issue of '*One Rank One Pension*' (OROP) is not recent; this issue was a centre of debate between government and the army since 1973. The most surprising fact to be noted here is that four decades ago an ex-parte decision was passed by government which terminated OROP by directly boycotting the military from this entire deliberation process.

To put OROP's demand into simple words it states that soldiers from all three wings of the military, who retired at same rank after serving for same length of time in the military should be given equal pension. All the pensioners' pension should be revised together without discriminating on the basis of the year they retired in which is currently not the criteria.

HISTORICAL PERSPECTIVE

In the year 1973 Indira Gandhi drastically reduced the pensions of ex- servicemen without any consultation from them. And she subsequently increased the civilian pension by approximately 20%. This decision of reducing pension was to bring parity between civilians and army personnel after Third Pay Commission Report¹; right after Indian army won the war in 1971. The government also degraded the soldiers by placing a Jawan with less than three years of service in the category of unskilled or semi-skilled labour which reduced their salary and henceforth their pension.

¹ Third Pay Commission Report, 1973, <http://www.egazette.nic.in/WriteReadData/1974/E-1269-1974-0105-56039.pdf>.

The legacy was carried forward by Rajiv Gandhi, who in the year 1986 after Fourth Pay Commission² introduced the system of rank pay. Rank pay means that the police men, civil servants who had equal amount of service was equated to brigadiers having equal service. The basic pay of army personnel was reduced which was given to other civilians which lead to feud between police and army. Further this change in pay reduced the pension.

A writ petition was filed in the year 2006 in the case of Union of India v SPS Vains³ the court held that the central government's decision is against Article 14⁴ of the constitution as the central government only revised the pay of Major Generals who retired before 1.1.1996 to bring their pension equal to what was given to Brigadiers, which was unfair as servicemen who retired after 1996 had revised pay scale and those Major Generals received a higher pay.

In 2008 the UPA led government under Manmohan Singh scrapped off rank pay and introduced grade pay. Further the government created many posts in the civilian sector. All the civilians, police officers, and civilian defence personnel retirees had highest pay grade which further lead them to have highest pension.

The entire process of reducing the pay grade resulted in agitation by the veterans. They went on hunger strike at Jantar Mantar which resulted in many veterans dying. The BJP led government wanted to implement the recommendations of the Koshyari Commission⁵ of 2011. Under the chairmanship of B.S Koshyari, the committee submitted a report after strongly recommending the implementation of OROP. The then defence minister, Mr. Manohar Parrikar in 2015 appointed another committee⁶ under the chairmanship of retired Chief Justice of Patna, Justice L Narasimha Reddy who went around different cities and prepared a report on this issue and concluded with favouring it.

The BJP's main agenda for campaigning in the election was OROP, thus the government implemented the scheme in 2016 to which veterans were not satisfied. They took the government to the court and filed a writ petition in the Supreme Court of India by the name of *Indian Ex-Servicemen Movement and others v Union of India*⁷.

²Fourth Pay Commission Report, 1987, <http://www.egazette.nic.in/WriteReadData/1974/E-1269-1974-0105-56039.pdf>.

³ Union of India v SPS Vains, 2008, 9 SCC 125.

⁴ INDIA CONST. art. 14

⁵ Koshyari Commission, Bhagat. S. Koshyari, 2011.

⁶ Press Information Bureau, Government of India, Justice L Narsimha Report, 2016, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=152003>.

⁷ Indian Ex- Servicemen Movement and others v Union of India, 2016, Writ Petition(s)(Civil) No(s). 419/2016.

ANALYSIS OF DEMAND OF OROP

- The main reason for demand for OROP is that there are a lot of levels in hierarchy in the army. The rank decides the retirement age. Very often the lowest ranking Sepoy, non-commissioned officers and junior commissioned officers face the situation where they are compulsorily retired due to the army's policy of early recruitment and early retirement. By the time these soldiers turn 35-40 years old they start receiving pension which is not enough to sustain the family with rise in prices of basic commodities due to inflation.
- The criteria in India for calculating the pension of army personnel is 50% of last drawn salary which is followed by revision, but, after many years when government feels the need for revision due to steep increase in prices.
- The veterans who fought in the wars who retired at the rank of colonel in 1996 are drawing 1/5 of the pension of what a colonel with same service drew in 2006 and 1/10 of pensions what any colonel will draw in the year 2019. This disparity lead to rise in agitation by veterans demanding same pension for same length of service and retiring at the same rank.
- This issue doesn't just concern officers but Jawans who sacrifice their lives; it concerns the widows of ex-servicemen whose only source of income is pension. This issue concerns those 3.6 million⁸ veterans who demand their rights.
- The other issue one which added fuel to the fire was that all the Civil Servants have 60 years as their retirement age due to which they have highest pension.
- These Civil Servants are protected under Section 47⁹ of The Disability Act, which states even if they get disabled that cannot be a ground for their removal which is not the case with soldiers.
- The army men more often than thought are firstly compulsorily retired as mentioned above, secondly, they are dismissed from service on grounds of disability, thirdly their age of retirement is decided by rank which implies that only 10% of NCO's & JCO's rise up to the level of commissioned officer making this low pension issue an undeniable one.
- The One Rank One pension was granted to high ranking Civil Servants and police officers in the year 2008 after the Prime ministers' office and Department of Pensions and Pensioners' Welfare supported it. This scheme (Apex OROP, 2008) not only covered future Civil Servants and police officers but one who were then serving or who were retired in the past.
- The government also included high ranked army personnel in the scheme in order to buy the silence of heads of the army. These high-ranking officers form only 5% of entire force leaving others with low pension.

⁸It is Time to Analyze OROP with our Head not Heart, Chetan Bhagat, Economic Times, 2018, <https://economictimes.indiatimes.com/news/defence/it-is-time-to-analyze-orop-with-our-head-not-our-heart/articleshow/49031444.cms?from=mdr>.

⁹ Section 47, Disabilities Act, 1995.

- To worsen the situation in 2008 the government with OROP for Civil Servants introduced a scheme known as Non-Functional Financial Upgradation (NFFU) in order to give promotions to them in order to bring these Civil Servants equal to the posts of army officials like Lt. General etc.

THE OTHER SIDE

- If we look at the genuine concerns of the government they cannot be ignored, every year government will have to shell out Rs 8,000- Rs 10,000 Crore if the scheme is implemented.
- The scheme is being planned to be implemented retrospectively from July 1st and the payments of arrears will cost around Rs 10,000- 12,000 Crores. Thus, this revision will strain the economy.
- In case this scheme is implemented all the paramilitary forces like CRPF, BSF etc will demand the same which would further increase economic burden.
- This entire burden will not stop by paying pensions to all the people who are suffering but will increase after every pay commission leading to addition in number of people retiring and further straining the Defence Budget allocation.

CURRENT SCHEME FOR ONE RANK ONE PENSION

- The government notified stating that the pension will be fixed on the pension of retirees of 2013. This will be effective prospectively from July 2014. The veterans opposed this and said that they wanted 2013-2014 financial years pension and not the one that government was proposing.
- They also objected that the date of implementation should be April 1st & not July 1st.
- Their demand of revising pays every two years was rejected by government and government notified that it will be fixed every five years.
- The notification clearly stated that those personnel who wilfully retired from the service will not be able to get the benefit from this scheme which further increased the tension.
- The government also clarified that the pension amount will be fixed by taking minimum and maximum amount of pension which the personnel from same rank were drawing and average will be taken out which will lead to revised pension amount.
- In order to protect the ex-servicemen drawing more pension, their pension will not be reduced, the veterans agitated saying they wanted the revised pension to be equal of maximum drawn pension of the rank and not average.
- The Modi government in 2018 released arrears of Rs 1465 Crores which will benefit 24 lakh soldiers and 6 lakh widows which will be paid in four instalments. The ex- servicemen still went on protesting for desired changes.

GLOBAL SCENARIO

India will be the world's first country to introduce the scheme of OROP. All the nations worldwide have similar schemes which do not strain their respective economies. Every country in the world introduces public policy according to the needs of the masses but certain public policies directly affect the international standing of the state.

The military power is the most important scale to evaluate any country's standing. The SIPRI (Stockholm International Peace Research Institute)¹⁰ in 2019 released report which states that USA spends 3.2% of their GDP whereas India spends 2.4% from which it can clearly be concluded that military men receive one of the highest pays and pension in the country which leads to smooth functioning. On the other hand, the pay of officers is revised but the masses like Jawans are completely kept out of the increment which leads to disparity in pension.

This public policy affects India because of the size of army and the length of border which is being protected by military. Their resentment clearly shows that they are being disrespected which further completes the cycle of less men joining the National Defence Academy every year.

The Chinese government reserves civilian's jobs for the military which secures their future. In USA the soldiers receive 50% of the last drawn salary which is very high and enough for them to combat the issue of inflation. They also help in reemployment and teach them other skills.

INDIAN JUDICIARY

Time and again the Judiciary has ordered the government to implement the scheme of OROP. In recent writ petition of *Ex- Servicemen Movement and others v Union of India*¹¹ the Supreme Court stated that the scheme released by government in the past years completely distorts the definition of OROP, the judges further stated that the government must look into this matter otherwise it will be disrespectful to the veterans who have served the country. The government has given effect to the same by releasing first instalment.

SUGGESTIONS AND CONCLUSION

From the entire discussion there are various inferences and questions that surround the mind. After discussing with various army personnel, a pattern emerged wherein the number of Jawans' who come for recruitment is falling every year, as other jobs provide more financial security. The ethos of the army works strongly upon the principle of camaraderie. So, when the veterans protest and die for the nation to get OROP it does not go unnoticed by other army men which further results in military masses being unsatisfied with the result. On the other hand, the

¹⁰ Stockholm International Peace Research Institute Report, 2019.

¹¹ Indian Ex- Servicemen Movement and others v Union of India, 2016, Writ Petition(s)(Civil) No(s). 419/2016.

governmental concerns over fiscal viability cannot be ignored thus the budget of any country cannot run on emotional inclination and patriotism.

Indian government released the first instalment for OROP in November 2018 but the veterans were not satisfied with the scheme of OROP. The government before releasing this amount should have realised the burden that it will cause and the financial sustainability of the same is impossible with every pay commission as the amount would increase.

India should completely revise the policy of pension; the middle ground can never be reached by the two parties owing to their legitimate concerns. The best pension policy was adopted by United Kingdom where there is policy of uniform pension which is not affected by date of retirement or rank. Furthermore, the government of UK introduced a bill named Armed Forces Covenant Bill which makes supporting army veterans, officers and their kin an obligation on the state.

To make it more acceptable in India the policy can be bifurcated into tiers wherein, the NCO's, JCO's etc would be in third tier, and the second tier will consist of all the officers till rank of Brigadier and lastly, the first tier will consist of all the high-ranking officials. Within these tiers pension should be fixed as equal to that of a civil servant or any civilians. These pension grades in no manner will affect current salaries, but they should be revised every three years to deal with issue of inflation.

This solution fixes all the flaws as the gap between Civil Servants' pension and army personnel pension will reduce. Secondly, uniformity in pension will reduce the discrimination. The entire agenda of veterans will be solved wherein every retired officer will have more than sufficient amount to sustain.

The second amendment which should be brought is that Jawans' who get disabled in the war should be awarded civilian jobs and rehabilitation first so as to secure their future and reduce dissatisfaction. The model also reduces the government fiscal strain wherein every pay commission will not lead to thousands of crores of allocation.