

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 5115/2025

Omkar Bharti S/o Late Shri Bachan Bharti, Aged About 67 Years,
R/o- Vill Po - Chanar, District- Sirohi. (Office Address- Retired
From Service On 31-1-2016 Worked As Electrician In Mes Mount
Abu Air Force).

-----Petitioner

Versus

1. Union Of India, Through The Secretary, Government Of
India, Ministry Of Defence, Ne Delhi- 110001.
2. The Pcda, Draupdi Ghat, Allahabad-211003.
3. Assistant Garrison Engineer, Mount Abu (B And R) Air
Force, Mount Abu- 307501.
4. Garrison Engineer, Air Force-2 Military Engineer Service,
Air Force Station Jodhpur-242011.

-----Respondents

Connected With

D.B. Civil Writ Petition No. 4929/2025

Ajit Singh S/o Late Kanti Singh, Aged About 65 Years, 44C,
Nehru Colony, Mach Gaun, Abu Road, District Sirohi, Rajasthan,
(Office Address- Retired From Service On 31-7-2016 Worked As
Electrician In Mes Mount Abu Air Force.)

-----Petitioner

Versus

1. Union Of India, Through The Secretary, Government Of
India, Ministry Of Defence, New Delhi- 110001.
2. The Pcda, Draupdi Ghat, Allahabad- 211003.
3. Assistant Garrison Engineer, Mount Abu, (B And R) Air
Force, Mount Abu- 307501
4. Garrison Engineer, Air Force-2 Military Engineer Service,
Air Force Station Jodhpur-242011

-----Respondents

For Petitioner(s)	:	Mr. Shyam Prasad Singh
For Respondent(s)	:	Ms. Pintu Pareek Ms. Yukti Joshi for Mr. Vivek Shrimali

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE DR. JUSTICE NUPUR BHATI

Judgment

1. Date of conclusion of arguments	15.05.2026
2. Date on which judgment was reserved	15.05.2026
3. Whether the full judgment or only the operative part is pronounced:	Full Judgment
4. Date of pronouncement	19.06.2026

Reportable

Per Dr. Pushpendra Singh Bhati, J:

1. At the outset, this Court notes that the present batch of writ petitions, namely D.B. Civil Writ Petition No. 5115/2025 (Omkar Bharti v. Union of India & Ors.) and D.B. Civil Writ Petition No. 4929/2025 (Ajit Singh v. Union of India & Ors.), arise out of substantially similar orders passed by the learned Central Administrative Tribunal, Jodhpur Bench, and involve an identical controversy relating to entitlement of the petitioners to the differential commuted value of pension consequent upon revision of pension pursuant to the recommendations of the 7th Central Pay Commission.

1.1. This Court further notes that the factual matrix, the governing statutory provisions, the Office Memoranda relied upon by the parties, the submissions advanced, and the questions of law arising for consideration are substantially identical in both matters. In such circumstances, **D.B. Civil Writ Petition No. 5115/2025 (Omkar Bharti v. Union of India & Ors.)** is treated as the lead case. Accordingly, both the writ petitions are being decided by this common judgment. The facts are being noticed from D.B. Civil Writ Petition No. 5115/2025 (Omkar Bharti

v. Union of India & Ors.), and the conclusions arrived at herein shall govern the connected matter as well, unless specifically indicated otherwise.

1.2. By way of the present writ petition, the petitioner has prayed for the following reliefs:-

"It is, therefore, most humbly and respectfully prayed that this writ petition may kindly be allowed and by an appropriate writ, order or direction:-

(A) By an appropriate writ, order or direction, the impugned order dated 21.10.2024 (Annexure-4) and impugned order dated 23.05.2022 (Annexure-3) may kindly be declared illegal, unjust and deserves to be quashed and set aside. The case (OA) may kindly be decided on merits.

(B) By writ order or direction the respondents may kindly be directed to pay revised commutation of pension in accordance with 7th CPC sanctioned pension Rs.22,896/- with all consequential benefits.

(C) That by order or direction the restriction in respect of option may kindly be removed and the petitioner may be allowed to receive additional commutation of pension and pursuant of it new PPO may kindly be issued.

(D) Any other appropriate order or direction which may be deemed just and proper in the facts and circumstances of this case may kindly be also passed in favour of the humble petitioner.

(E) Costs of the writ petition may kindly be awarded in favour of the petitioner."

1.3. Before proceeding to examine the controversy on merits, this Court notes that certain dates and particulars reflected in the prayer clause of the writ petition do not appear to be in complete consonance with the record placed before this Court. However,

from a holistic reading of the pleadings, annexures and the reliefs sought, it is evident that the present writ petition assails the order dated 22.10.2024 passed by the learned Central Administrative Tribunal, Jodhpur Bench, Jodhpur in Original Application No.171/2022, as well as the speaking order dated 10.05.2022 whereby the petitioner's claim for grant of revised commutation of pension consequent upon implementation of the recommendations of the 7th Central Pay Commission came to be rejected. The present petition is, therefore, being considered in the aforesaid factual backdrop.

2. Brief facts of the case, as borne out from the pleadings and the material available on record, are that the petitioner was initially appointed as a Switch Board Attendant (SBA) on 05.11.1979 under the Military Engineer Services and, during the course of service, came to be promoted to the post of Electrician. Upon rendering more than thirty-six years of service, the petitioner attained the age of superannuation and retired from service on 31.01.2016.

2.1. Consequent upon his retirement, the petitioner was sanctioned pension in accordance with the then prevailing pay structure. The pension of the petitioner was fixed at Rs.9,475/- per month w.e.f. 01.02.2016 and the commuted value of pension was also released on the basis of the said pension.

2.2. Subsequent thereto, the recommendations of the 7th Central Pay Commission came to be implemented with effect from 01.01.2016. In consequence thereof, the pensionary benefits of

the petitioner were revised and a revised PPO came to be issued, whereby the pension payable to the petitioner stood enhanced.

2.3. The grievance of the petitioner arises from the fact that while the revised pension and consequential arrears were released in terms of the recommendations of the 7th Central Pay Commission, the commuted value of pension already paid to the petitioner was not correspondingly revised. According to the petitioner, upon retrospective revision of pension, he became entitled to the differential amount of commutation in terms of Rule 10 of the Central Civil Services (Commutation of Pension) Rules, 1981.

2.4. Aggrieved by the non-release of the differential commuted value of pension, the petitioner submitted representations before the competent authorities. As the grievance remained unaddressed, the petitioner approached the learned Central Administrative Tribunal, Jodhpur Bench, by way of an Original Application seeking redressal of his claim.

2.5. The said proceedings were disposed of with a direction to the competent authority to consider and decide the representation of the petitioner by a reasoned and speaking order. Pursuant thereto, the competent authority passed a speaking order dated 10.05.2022 rejecting the petitioner's claim for grant of differential commutation of pension.

2.6. Feeling aggrieved by the aforesaid speaking order dated 10.05.2022, the petitioner instituted Original Application No.171/2022 before the learned Central Administrative Tribunal,

Jodhpur Bench, challenging the rejection of his claim and seeking consequential benefits.

2.7. The learned Tribunal, after considering the rival submissions advanced by the parties and the material available on record, dismissed the Original Application vide order dated 22.10.2024. The petitioner, being dissatisfied with the aforesaid order as well as the speaking order dated 10.05.2022, has preferred the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner retired from service on 31.01.2016 and, therefore, became entitled to the benefits flowing from the implementation of the recommendations of the 7th Central Pay Commission, which were made effective from 01.01.2016.

3.1. Learned counsel further submitted that though the pension of the petitioner was subsequently revised and arrears arising therefrom were released by the respondents, the differential commuted value of pension consequent upon such revision was not paid, thereby resulting in denial of a legitimate monetary benefit to the petitioner.

3.2. Learned counsel contended that Rule 10 of the Central Civil Services (Commutation of Pension) Rules, 1981 specifically contemplates a situation where the pension of a pensioner, who has already commuted a fraction of his pension, is retrospectively revised and enhanced pursuant to a decision of the Government. It was submitted that in such circumstances, the pensioner becomes entitled to the difference between the commuted value

calculated on the basis of the enhanced pension and the commuted value already authorized.

3.3. Learned counsel argued that once the pension of the petitioner stood revised retrospectively pursuant to the implementation of the recommendations of the 7th Central Pay Commission, the respondents were under an obligation to re-work the commuted value of pension and release the differential amount payable to the petitioner in accordance with Rule 10 of the Rules of 1981.

3.4. Learned counsel further submitted that the respondents have erroneously relied upon the option exercised by the petitioner pursuant to the Office Memorandum dated 24.10.2016. According to learned counsel, the said option cannot operate to defeat a substantive statutory entitlement flowing from Rule 10 of the Rules of 1981.

3.5. Learned counsel also submitted that the petitioner did not derive any undue benefit by seeking recalculation of the commuted value and merely seeks payment of the amount which became payable consequent upon retrospective revision of pension. It was thus urged that the speaking order dated 10.05.2022 as well as the order dated 22.10.2024 passed by the learned Tribunal deserve to be quashed and set aside.

4. *Per contra*, learned counsel appearing for the respondents opposed the writ petition and submitted that the petitioner retired from service on 31.01.2016 and, upon retirement, was sanctioned pension and commutation of pension strictly in accordance with

the rules applicable on the date of retirement. The commuted value of pension was duly calculated and paid to the petitioner and, therefore, no illegality can be attributed to the action of the respondents.

4.2. Learned counsel further submitted that after acceptance of the recommendations of the 7th Central Pay Commission, the Department of Pension and Pensioners' Welfare issued Office Memorandum dated 24.10.2016 providing a special dispensation to pensioners who had retired during the period between 01.01.2016 and 04.08.2016, i.e. between the effective date and the notified date of the revised pay structure.

4.3. Learned counsel submitted that in terms of the aforesaid Office Memorandum, such pensioners were afforded an option either to retain the commutation already received on the basis of pre-revised pension or to seek commutation of the additionally commutable portion arising on account of revision of pension. The petitioner was also extended the benefit of the said option.

4.4. Learned counsel argued that the petitioner consciously exercised the option to retain the commutation already received on the basis of the pre-revised pension and did not opt for commutation of the additional pension that became commutable upon revision. Having exercised such option voluntarily and with full knowledge of its consequences, the petitioner is estopped from subsequently seeking a contrary benefit.

4.5. Learned counsel further submitted that pursuant to implementation of the recommendations of the 7th Central Pay

Commission, the pension of the petitioner was duly revised and all consequential arrears admissible under the applicable rules were released. Thus, no pecuniary loss has been caused to the petitioner except to the extent of the claim now sought to be raised contrary to the option already exercised by him.

4.6. Learned counsel contended that Rule 10 of the Central Civil Services (Commutation of Pension) Rules, 1981 cannot be read in isolation and must be construed harmoniously with the relaxation and option mechanism introduced by the Office Memorandum dated 24.10.2016. It was submitted that once the petitioner elected one of the alternatives specifically made available to him, he cannot subsequently seek withdrawal of such option and claim benefits flowing from the alternative not chosen by him.

4.7. Learned counsel lastly submitted that the learned Central Administrative Tribunal has considered all relevant facts, the applicable rules, the Office Memorandum governing the field and the option exercised by the petitioner, and has rightly rejected the claim. It was, therefore, prayed that the present writ petition be dismissed.

5. Heard learned counsel for the parties and perused the material available on record.

6. This Court observes that before examining the legal contentions advanced by the parties, it would be apposite to examine the financial implications arising out of the rival stands in order to ascertain whether the petitioner has, in fact, suffered any monetary prejudice.

6.1. This Court notes that at the time of retirement, the petitioner's basic pension was fixed at Rs.9,475/- per month. Upon commutation of 40% of the pension, a sum of Rs.3,790/- per month stood commuted, resulting in payment of a lump-sum commuted value of approximately Rs.3,72,655/-. Consequently, the petitioner became entitled to receive a residual pension of Rs.5,685/- per month (Rs.9,475/- minus Rs.3,790/-).

6.2. Subsequently, pursuant to implementation of the recommendations of the 7th Central Pay Commission, the petitioner's pension stood revised to Rs.26,000/- per month. However, the petitioner elected to retain the commutation already received on the basis of the pre-revised pension and did not opt for commutation of the additionally commutable portion arising out of the revised pension.

6.3. As a consequence thereof, the deduction on account of commutation continued to remain relatable to the amount already commuted, namely Rs.3,790/- per month. Thus, against the revised pension of Rs.26,000/-, the petitioner continued to receive pension after deduction of only Rs.3,790/-, resulting in a monthly pension of Rs.22,210/-.

6.4. Had the petitioner opted for commutation on the basis of the revised pension of Rs.26,000/-, the commutable portion would have increased to Rs.10,400/- per month, being 40% of the revised pension. In such an eventuality, while the petitioner would have received an additional lump-sum commuted value, the monthly pension payable to him during the commutation period

would have stood reduced to Rs.15,600/- per month (Rs.26,000/- minus Rs.10,400/-).

6.5. For ready reference, the comparative position is reproduced hereinbelow:-

Particulars	Option Exercised by Petitioner	Revised Commutation Now Claimed
Basic Pension	Rs.26,000/-	Rs.26,000/-
Monthly Commutation Deduction	Rs.3,790/-	Rs.10,400/-
Monthly Pension Payable	Rs.22,210/-	Rs.15,600/-
Additional Lump-sum Commutation	Nil	Approx. Rs.6.50 Lakhs

6.6. This Court thus finds that the petitioner was not deprived of the benefit of revision of pension under the 7th Central Pay Commission. On the contrary, by retaining the commutation already received on the basis of the pre-revised pension, the petitioner continued to draw a substantially higher monthly pension than what would have been payable had the revised commutation been opted for. The petitioner's grievance, therefore, is not founded upon denial of revised pension or pensionary arrears, but upon a claim for an additional lump-sum commuted value despite having elected to retain the benefit of the earlier commutation structure.

6.7. In view of the aforesaid position, this Court finds that the principal controversy requiring adjudication is not with respect to the calculation of pension or the quantum of commuted value payable. The real issue pertains to the interplay between Rule 5,

Rule 10 of the Central Civil Services (Commutation of Pension) Rules, 1981 and the Office Memorandum dated 24.10.2016 issued by the Department of Pension and Pensioners' Welfare.

6.8. Learned counsel for the petitioner has vehemently contended that Rule 10 of the Rules of 1981 confers a statutory entitlement upon the petitioner to receive the differential commuted value consequent upon retrospective revision of pension and, therefore, such entitlement could not have been curtailed by an executive instruction in the nature of the Office Memorandum dated 24.10.2016.

6.9. In order to appreciate the aforesaid contention, it would be appropriate to first refer to Rule 5 of the Rules of 1981, which reads as under:-

"5. Limit on commutation of pension

(1) A Government servant shall be entitled to commute for a lumpsum payment [of an amount not exceeding forty per cent] of his pension.

(2) In an application for commutation [in Form 5 of the Central Civil Services (Pension) Rules, 1972 or in Form 1 or Form 1-A or Form 2 of these rules], as the case may be, an Applicant shall indicate the [percentage] of pension which he desires to commute and may either indicate the maximum limit of [forty per cent] of pension or such lower limit as he may desire to commute.

(3) If the percentage of pension to be commuted results in fraction of rupee, such fraction shall be ignored for the purpose of commutation."

6.10. A plain reading of Rule 5 demonstrates that commutation of pension is fundamentally founded upon the volition and election of

the pensioner. The Rule does not mandate automatic commutation. Rather, it requires the pensioner to make an application and indicate the extent of pension which he desires to commute, subject to the maximum permissible limit. The concept of informed choice is thus embedded in the statutory scheme itself.

6.11. Rule 10 of the Rules of 1981, on which reliance has been placed by the petitioner, reads as under:-

"10. Retrospective revision of final pension

An applicant who has commuted a [percentage] of his final pension and after commutation his pension has been revised and enhanced retrospectively as a result of Government's decision, the applicant shall be paid the difference between the commuted value determined with reference to enhanced pension and the commuted value already authorized. For the payment of difference, the applicant shall not be required to apply afresh."

6.12. This Court observes that Rule 10 merely provides the consequence that follows where a pension already commuted is subsequently revised and enhanced retrospectively. The provision dispenses with the necessity of filing a fresh application for payment of the differential amount. However, Rule 10 cannot be read in isolation divorced from the overall statutory framework, particularly Rule 5, which recognizes and preserves the pensioner's right of election in matters relating to commutation.

6.13. It is in this backdrop that the Office Memorandum dated 24.10.2016 assumes significance. The said Office Memorandum was issued to address the peculiar situation arising out of

retrospective implementation of the recommendations of the 7th Central Pay Commission in respect of employees who had retired between 01.01.2016 and 04.08.2016. The Office Memorandum did not take away any benefit available under the Rules of 1981; rather, it afforded such pensioners a specific option either to retain the commutation already received on the basis of the pre-revised pension or to avail the benefit of commutation relatable to the additionally commutable portion arising out of revision of pension.

6.14. This Court finds that the Office Memorandum neither overrides nor amends Rule 10. On the contrary, it operates in a supplementary field by facilitating the exercise of choice in a transitional situation created by retrospective revision of pension. The Office Memorandum, therefore, harmoniously co-exists with the statutory rules and cannot be said to be repugnant thereto.

6.15. This Court further observes that the claim raised by the petitioner proceeds on an inherently selective application of the revised pensionary regime. The petitioner seeks payment of the enhanced commuted value calculated on the basis of the revised pension sanctioned pursuant to the recommendations of the 7th Central Pay Commission, but at the same time seeks to retain the financial consequences flowing from the commutation already exercised on the basis of the pre-revised pension.

6.16. This Court finds that commutation of pension is not a severable or standalone benefit capable of being selectively enforced. The grant of an enhanced commuted value necessarily carries with it the corresponding consequence of a proportionately

higher deduction from the monthly pension during the commutation period. The two constitute integral parts of the same statutory arrangement and cannot be artificially separated.

6.17. In the present case, while the petitioner seeks the benefit of additional commuted value relatable to the revised pension of Rs.26,000/-, he does not seek recalculation of the monthly commutation deduction on the same basis. Acceptance of such a contention would result in the petitioner receiving the additional lump-sum benefit attached to the revised pension while simultaneously retaining the advantage of a lower deduction relatable to the pre-revised pension. Such a consequence would confer a dual and unintended benefit which neither the Rules of 1981 nor the Office Memorandum dated 24.10.2016 contemplate.

6.18. This Court is therefore of the view that the petitioner cannot be permitted to adopt only that part of the revised commutation framework which is financially advantageous to him while disclaiming the corresponding obligations and consequences necessarily attached thereto. Such a course would be contrary to the scheme governing commutation of pension and would result in an inequitable and anomalous outcome.

6.19. This Court further observes that the doctrine of election is a well-recognized principle in law. The Hon'ble Supreme Court in ***R.N. Gosain v. Yashpal Dhir, (1992) 4 SCC 683, Rajasthan State Industrial Development & Investment Corporation Ltd. v. Diamond & Gem Development Corporation Ltd., (2013) 5 SCC 470*** and ***State of Punjab v. Dhanjit Singh***

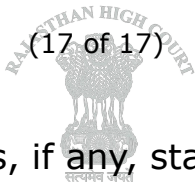
Sandhu, (2014) 15 SCC 144 has consistently held that a party cannot approbate and reprobate simultaneously, nor can such party accept benefits flowing from a particular course of action and thereafter challenge the very foundation thereof for securing an additional advantage.

6.20. Applying the aforesaid principle to the facts of the present case, this Court finds that the petitioner consciously elected to retain the commutation already received on the basis of the pre-revised pension and thereby enjoyed the corresponding benefit of drawing a substantially higher monthly pension. Having accepted and acted upon such option, the petitioner cannot now seek the additional lump-sum commuted value relatable to the alternative option which he consciously declined.

6.21. This Court further finds that the petitioner was granted the benefit of revision of pension under the recommendations of the 7th Central Pay Commission and was also afforded an opportunity to exercise an option in relation to the additionally commutable portion of pension. Having exercised such option voluntarily, the petitioner is bound by the consequences flowing therefrom.

7. Consequently, this Court does not find any merit in the present writ petition. The present writ petition D.B. Civil Writ Petition No. 5115/2025 (Omkar Bharti v. Union of India & Ors.), is ***dismissed***.

7.1. For the reasons recorded hereinabove, the connected writ petition, being D.B. Civil Writ Petition No. 4929/2025 (Ajit Singh v. Union of India & Ors.), is also ***dismissed***.



7.2. All pending applications, if any, stand disposed of.

(DR.NUPUR BHATI),J

(DR.PUSHPENDRA SINGH BHATI),J

SKant/-