DEPARTMENT OF EX-SERVICEMEN WELFARE (DESW)

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

Total No. of Recommendations	**:**	**26**
Accepted/Implemented	:	05
Partially accepted	:	07
Not Accepted	:	09
Deferred	:	01
Under Examination/Consideration	:	04

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

14.	2.2.15 NON ACCEPTANCE OF DECLARATION OF BATTLE CASUALTY AND NON-GRANT OF WAR-INJURY OR LIBERALIZED BENEFITS TO CASUALTIES IN OPERATIONAL AREAS:	*Partially Accepted.*
15.	2.3.1 Grant of ECHS facilities to Short Service Commissioned Officers (SSCOs) and Emergency Commissioned Officers (ECOs). (Partially related to DESW)	*Accepted.*
16.	2.3.3 Non-inclusion of military pay and other elements of emoluments during fixation of pay on re-employment of military pensioners on the civil side.	*Not accepted*
17.	2.4.1 Collegiate system of decision-making:	Partially Accepted.
18.	Para 2.4.2 : Non-implementation of decisions and flouting of existing guidelines on implementation of judicial verdicts:	Accepted.
19.	Para 2.4.3 : Overreliance on MoD (Finance) and Finance entities for decisions and policy formulation:	Not Accepted
20.	Para 2.4.5 : Lack of availability of correct talent and inputs to DESW and functioning of the Standing Committee for Welfare of Ex-Servicemen:	Partially Accepted
21.	2.4.7 Unnecessary red-tapism and hyper-technical requirements of forms, affidavits etc. which militate against the spirit of the Hon'ble Prime Minister's vision for citizens:	*Under Examination.*
22.	2.4.8 Suspect Legality of Pension Regulations, 2008 and Entitlement Rules, 2010:	*Under Examination.*
23.	Para 7.1 : Lateral induction and re-employment	*Partially Accepted.*
24.	Para 7.5 Issues related to Short Service Commissioned Officers (Partially related to DESW)	*Accepted.*
25.	7.8. ISSUE RELATED TO OFFICER-CADETS/CADETS DISABLED IN TRAINING ACADEMIES:	*Deferred. The matter is being examined in Department of Military Affairs.*
26.	7.10 ISSUES CONCERNING RETIRED MAJORS:	*Not accepted.*

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

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

	47 of the Persons with Disabilities Act, 1995, is not available to defence personnel. (c) Clarification to the above effect may be issued to all concerned for future cases. **All appeals in the Hon'ble Supreme Court on the said subject are recommended to be withdrawn and all pending litigation in Courts/Tribunals or future litigation for similar past cases that may arise, may be directed to be conceded in favour of claimants except in cases where the soldiers have themselves been found blameworthy for the disability.**	*proposal, to treat death/disability during leave as attributable to military service.* *3. CGDA office to whom the matter was referred, has furnished following comments:-* *"As per extent provisions, attributability/aggravation of JCOs/ORs and ICOs is decided by the O.I/C Records and Service Hqrs respectively on the basis of recommendation of Medical Board and circumstances of death/injury. Para 4.1 of Govt. MoD letter 1(2)/97/D(Pen-C) dated 31.01.2001 has made provisions for grant of pensionary benefits based on the circumstances of death/disability. It is very evident that attributable and aggravation are principle factors in categorization of disability.* *4. In view of the above, consideration of pensionary awards in cases which are neither attributable to nor aggravated by military service is not in consonance with the fundamental principles of granting disability pension. Further it is also mentioned that as per Para-9 of Entitlement Rule-2008* ***only joining to and from leave is treated as duty not the entire leave period****."* *5. Keeping in view of CGDA's views and para 2 above, the proposal for grant of disability pension for disability arising out of injuries occurs during leave period does not have merit to keep at par with the personnel whose injury/disability is attributable to or aggravated by military service.* ***The Hon'ble Supreme Court vide its order dated 20.09.2019 in Civil Appeal No. 4981 of 2012 filed by UoI & ors Vs Dharambir Singh has also held that*** *"the mere fact of a person being on "duty" or otherwise, at the place of posting or on leave, is not the sole criteria for deciding attributability of disability/death. There has to be a relevant and reasonable causal connection, howsoever remote, between the incident resulting in such disability/death and military service for it to be attributable. An accident or injury suffered by a member of the Armed Forces must have some casual connection with military service and at least should arise from such activity of the member of the force as he is expected to maintain or do in his day-to-day life as a member of the force.*
3.	**2.2.3 DISABILITY BENEFITS TO VOLUNTARY RETIREES : It is hence recommended that disability pension may not be denied to pre-2006 voluntary retirees with the following in the backdrop:** a) The denial itself was based on a false foundation of 'double benefit' as also incorrectly projected to the pay commission, but in reality there was no such availability of a 'double benefit' as explained above and hence the reason for such prohibition itself is invalid. A disability or a war injury does not cease on voluntary retirement and even otherwise the cut-off date now stands struck down and the striking down has been upheld by the	***Accepted :*** *Policy has been revised and Government order for grant of Disability Element to Armed Forces Personnel who were retained in service despite disability attributable to or aggravated by Military Service and subsequently proceeded on premature/voluntary retirement prior to 1.1.2006, has been issued vide MoD letter No. 16(05)/2008/D(Pen/Pol) dated 19.5.2017.*

	Hon'ble Supreme Court. It is even otherwise discriminatory The Department of Pension and Pensioners' Welfare has extended the benefit of Constant Attendance Allowance (CAA) to pre-2006 as well as post-2006 eligible civilian disabled retirees but with financial effect from 01-01-2006, hence it is not logical for the DESW to alone deny benefits based on such artificial cut-off dates. The pain and agony caused by an injury prior to 2006 or after 2006 is the same. (b) **It is recommended that till the time the policy is comprehensively revised, all appeals filed in the Supreme Court on the said point by the MoD may be withdrawn, no fresh appeals be filed and pending litigation in various Tribunals be conceded on a case to case basis.**	
4.	**2.2.4 ILLEGAL DENIAL OF PENSION BENEFITS TO PRE-2006 RETIREE HONORARY NAIB SUBEDARS: The committee recommends the following to tackle this issue once and for all since it has resulted in massive litigation which shall soon get further compounded due to faulty policies:** (a) Pensions of Pre and Post 2006 Honorary Naib Subedars be calculated using the same base of the new scale of Honorary Naib Subedar/Naib Subedar introduced after the 6th CPC as directed by the AFT and upheld by the Supreme Court. This must be the only category of employees wherein pensions are being calculated on different scales- those of pre-2006 Honorary Naib Subedars are being calculated based on the scale of a Havildar while those of post-2006 retirees are being calculated based on the scale of a Naib Subedar. To take an example, when a new scale was introduced in the year 2009 for Additional Secretaries to Govt of India and Lt Gens of the Army over and above the recommendations of the 6th CPC, the pensions of all pre-2006 retirees of the grade of Additional Secretary (HAG) as well as Lt Gens were re-calculated on the basis of the newly introduced scale, which system is a standard practice since the 5th CPC, hence there was no occasion for treating the rank of Honorary Naib Subedar differently. In any case, any personal opinion to the contrary is irrelevant. (b) Since the pay for the purposes of fixation of pension for Honorary Naib Subedars and Naib Subedars has been equated by the Govt for post-2006 retirees and the distinction between post-2006 and pre-2006 has been struck down and the striking down has been upheld by the Hon'ble Supreme Court, the pension of pre-2006 Honorary Naib Subedars vis-a-vis pre-2006 Regular Naib Subedars may also be equated since a wide disparity has been perpetrated between the two which should have been taken care of by the establishment itself since the said issue also stands covered in spirit by the *ibid* decisions. The system as followed for Honorary Naiks and Honorary Havildars can be followed for Honorary Naib Subedars too, that is, pension of Honorary Naib Subedars can be fixed one rupee (Re 1/-) lower than Regular Naib Subedars as per the dispensation in vogue for Honorary Naiks and Honorary Havildars. Any discrimination limited to the rank of Honorary Naib Subedar is hence highly incongruous.	***Accepted :*** *6th CPC vide Para 5.1.62 has recommended that Honorary Rank of Naib Subedar granted to Havildars will be **notionally** considered as a promotion to the higher grade of Naib Subedar and benefit of fitment in the pay band and the higher grade pay will be allowed **notionally** for the purpose of fixation of pension only. Accordingly, additional element of pension of Rs. 100/- pm payable to Havildars granted Hony rank of Naib Subedar will cease to be payable*. The provisions of the MoD letter dated 12.06.2009 were applicable to those HNS who retired/discharged from service on or after 01.01.2006. Hon'ble AFT, Chandigarh vide its order dated 27.10.2017 in OA No. 2755/2013 filed by Ex. HNS Hoshiar Singh held the following: *(a) No res judicata, as provided in Order 2, Rule 2 of the Code of Civil Procedure would be applicable in the facts and circumstances of the present case.* (b) *As inter se **parity between the Hony. Nb. Subedar and Nb. Subedar could neither be established, nor is acceptable to this Tribunal**. **The fundamental difference between the said two categories has always remained and shall remain so.** However, the limited parity, conferred on acceptance of the recommendations of the Sixth Pay Commission vide GoI Circular dated 12.06.2009 to the following extent " …… that Honoray rank of Nb Subedar granted to Havildar will be notionally considered as a promotion to the higher grade of Nb. Subedar and benefit of fitment in the pay band and the higher grade pay will be allowed notionally for the purpose of fixation of pension only" is required to be accepted and implemented in letter and spirit of the*

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

	State of Karnataka 2006 (9) SCC 406*, Civil Appeal 1123/2015** ***State of Rajasthan Vs Mahendra Nath Sharma decided on 01-07-2015 and **Civil Appeal 8875/2011** ***Union of India Vs Sqn Ldr Vinod Kumar Jain*** decided on 17-03-2015. (c) That even otherwise, whenever such anomaly has been removed from the scales of other classes of employees, including civilians and commissioned officers, the said rectification in pension or pay and allowances has always taken effect from the date of implementation of recommendations of the pay commission, and not any future cut-off date. For example, when the new pay grade of Rs 67000-79000 was implemented for Additional Secretaries to Govt of India and Lt Gens in 2009, it was implemented with effect from 01-01-2006 for pay and allowances purposes of serving officers and for pension calculation purposes for pre-2006 retirees whose pensions were now based on the freshly introduced scales of 2009 with financial effect from 01-01-2006. Similar is the case for all other ranks and grades. Hence, it makes no logic to treat lower ranks of the three defence services differently. Even the arrears in the "rank pay" case, after the decision of the Supreme Court, were granted to all officers recently with effect from 01-01-1986 with interest. (d) **Though we are not recommending promulgation of fresh policy in this regard since we are now at the cusp of the next pay commission, the litigation in the form of appeals and reviews pending before the Supreme Court, High Court and various Benches of AFT may be immediately withdrawn by the Ministry of Defence/Services HQ since it is not only unethical but also a burden on the exchequer as well as the litigants since the issue stands long settled by the Supreme Court and is covered by the Government's own gazette notification. Pending/future cases be conceded on same lines by agreeing to grant of benefits from 01-01-1996 till 30-06-2009 without any restriction of arrears in light of the Gazette notification on the subject.**	
6.	**2.2.6 REQUIREMENT OF 10 MONTHS' SERVICE IN A PARTICULAR RANK TO EARN THE PENSION OF THAT RANK:** **Since this issue has led to, and is leading to multiple litigation in Courts, the Committee recommends that no appeals be filed before the Supreme Court on the 10 months' stipulation since not only is the issue covered by the Constitution Bench decision of the Supreme Court in *DS Nakara's* case but also the stand taken against the proposition defies all logic since such personnel are being forced to accept pension of a lower rank than the one in which they had retired and that too by impishly reintroducing a negative stipulation without the sanction of the Cabinet, which anyway stands abrogated with effect from 01-01-2006. In future, it may be taken care to grant pensions based on the rank last held, as is the case on the civil side, and not based on the last rank held for 10 months.**	***Partially Accepted:*** *RM's Committee of Expert have recommended following:-* *(i) No appeals be filed before the Supreme Court on 10 month stipulation;* *(ii) In Future, it may be taken care to grant pension based on the rank last held, as is the case on the civil side and not based on the last rank held for 10 months.* *2. As regards, recommendation at (i), it is brought out that the stipulation of serving in the rank for minimum 10 months in respect of Pre-2006 retiree PBORs is along with the provisions of fixing the pension at the maximum of the scale,* ***even if no individual actually reaches at the maximum.*** *If the individual has equal to or more than 10 months service in particular rank, his pension is calculated on the* ***maximum of the scale*** *for that rank, only in case if he has less than 10 months service in that rank, his pension is calculated on the* ***maximum of the scale*** *of*

		*previous rank.. Hence doing away the stipulations of 10 months residency period in the rank while maintaining the above provision **(maximum of the scale basis**) is not logical as it would grant dual benefit on the same accord and hence this part of recommendations does not hold merit.* *2.1. In Civil Side, the pension during 5th CPC regime was paid at the rate 50% of the average emoluments drawn during the last 10 months of service (not on the maximum of the pay scale of the rank/post held at the time of retirement). If an individual had not completed 10 months on a particular post, for remaining period, pay of previous post would be taken for calculation of average emoluments.* *2.2. Regarding the second part of recommendation, it is stated that post 2006 retirees are being given pension which is 50% of the last emoluments drawn and hence this is already being implemented.* *3. MoD(Fin/Pen) has not supported the recommendations of the Raksha Mantri's Committee of Experts regarding delinking of the stipulation of 10 months of service in the rank for earning pension of that rank in respect of pre-2006 pensioners and concurred the views of this Department.*
7.	**2.2.7 CATEGORIES OF PENSION INTRODUCED BY THE 5TH CPC EXTENDED TO POST-1996 AS WELL AS PRE-1996 RETIREES ON THE CIVIL SIDE BUT INAPPROPRIATELY ONLY TO POST-1996 RETIREES ON THE MILITARY SIDE:** **The committee hence recommends that the provisions of the letter dated 11-09-2001 (Annexure-20) issued by the DoPPW on the civil side whereby the benefits of the new categories of enhanced disability/liberalized pension and family pension for post-1996 retirees were extended to pre-1996 retirees also may be extended to military pensioners *mutatis mutandis* by extending the principles of MoD letter dated 31-01-2001 (issued by MoD only for post-1996 retirees) to pre-1996 retirees on the lines of the DoPPW letter dated 11-09-2001. This issue has also been deliberated and adjudicated upon by the Hon'ble Supreme Court already in *KJS Buttar's* case (supra). It would be discriminatory to treat civilian and defence retirees differently when the Categories mentioned in all of the letters above emanate from a common recommendation of the same pay commission.**	***Not Accepted :*** *The committee has recommended to extend the provisions made in MoD letter dated 31.1.2001 issued on the recommendation of 5th CPC to pre-1996 pensioners as has been made by DoP&PW vide their OM No. 45/22/97-P&PW(C) dated 11.9.2001.* *CGDA has offered following comments:-* *a) To extend the provisions of the GoI, MoD letter dated 31st January, 2001 of pre-01.01.1996 retirees would create further complexities as the pension of all kinds i.e service, disability, war injury and various family pensionary awards would required to be examined manually to decide the amended pensionary awards in accordance with provisions laid down in the said Govt. Letter. Therefore, it is opined that old cases may not be reopened.* *b) Broad Banding benefit provided to post-1996 retirees vide MoD letter No. 1(2)/97/D{Pen-C) dated 31.01.2001 has already been extended to pre -1996 retirees vide GoI, MoD letter No. 12(16)/2009(Pen/Pol) dated 15.09.2014. Further, by implementation of OROP, the distinction in pension of pensioners of*

		different vintage has largely been addressed. Reopening of the issue will lead to review in huge number of cases, re-categorizing different category of pensioners, verification by manual intervention, finding out circumstances of death for different type of causalities by manual verification inter-alia. Hence, this office is of the view, this would lead to multiplication of problems instead of sorting. *In order to improve the pension of PBORs, concept of weightage was introduced in 3rd CPC. 5 years weightage was allowed to PBORs in addition to their Qualifying Service(QS) so that they could get a higher pension. This was later enhanced by the Group of Minister (GoM) 2005 to 6, 8 and 10 to the three lowest group of PBORs i.e Sepoy, Naik and Havildar. This has again been enhanced by Cabinet Secretary Committee (CSC) 2012 to 8, 10 and 12 to the same group of PBORs. This enabled the PBORs to reach the maximum service of about 32 to 33 years of service, thus earning maximum pension. Another benefit given to PBORs is that their pension was always* ***calculated on the maximum of the pay scale of the rank held*** *at the time of discharge, which no individual ever actually reaches. The subsequent revision of pension for pre-2006 retirees viz, CSC 2009, CSC 2012 has been done on that maximum of the pay scale.* *In addition to the above, Govt. had implemented* ***One Rank One Pension (OROP)*** *Scheme for Defence Forces personnel. On implementation of OROP, the benefits rendered by 2013 retirees are passed onto past-retirees as their pension is being calculated on the basis of the average of minimum and maximum pension of personnel retired in 2013 in the same rank and with the same length of service under OROP scheme. No such OROP scheme exists in Civil Side, so far. Defence Pension may not be equated with Civil Pension. The number of disability pensioners is very large in comparison to Civil side and as stated by the CGDA the records in regard to mode of retirement/discharge/disability is required to be checked/verified manually on case to case basis which might not be available at their end.* *In view of the above, the recommendation was not found feasible for implementation.*
8.	**2.2.8 WAR INJURY PENSION TO WORLD WAR II RETIREES DISABLED IN WWII:** **The Committee notes with concern such discrimination and that too with a class of pensioners/family pensioners who stood against all odds for a war against humanity and that too at a time when fighting in foreign lands was taboo and**	***Not Accepted :*** *The following facts with regard to the issues for grant of War Injury Pension to World War-II disabled veteran, involved merits considerations:-* *(i) World War-II took place 70 years back, during 1939-1945. The number of live pensioners may be*

	who are now numerically placed on a sharp diminishing scale. It is hence strongly recommended that immediate measures be initiated to release war injury pension and liberalized family pension with financial effect from 01-01-1996 respectively to all those disabled retirees of WWII who are in receipt of disability pension and widows of personnel deceased in WWII who are in receipt of family pension.	*very very rare. The retention period of relevant record of the individuals which will require ascertaining the disability assessed during WW-II may be over. There may be a rare chance of retrieving the required information/data for decision of policy.* *(ii) The concept of War Injury Pay has been introduced in 1972 for Defence Forces Personnel. War Injury Pay is known as War Injury Pension from 4th CPC.* *(iii) Opening of the case for examination the proposal is just like opening a Pandora's box which will lead to open WW-I and other earlier cases which have no merit and factual documentary proof/data.* *The comments of CGDA office were also received on the proposal which are reproduced as under:-* *"(a) Gol, MoD vide letter No. 200847/Pen-C/71 dated 24th Feb, 1972, introduced liberalized pensionary awards for war widows and war-disabled servicemen. These provisions were made available for disablement of personnel on account of injuries sustained or personnel killed in action in operations against Pakistan commencing form 3rd Dec, 1971 besides a few more categories mentioned in the letter.* *(b) It may be seen that casualties of WW-II not covered in the above Government letter. Further, pension documents of Armed Forces pensioners were migrated to PCDA (P) Allahabad from CMA (P), Lahore during the year 1947-48. This office is not in a position to identify' the cases related to World War - II.* *In a reply to Parliament Question, it was replied that no separate database has been maintained for WW-II veterans. Hence it would be difficult to work out any pension for them in absence of data.* *However, taking into the fact that the number of such veterans will be very small, some other assistance (financial) in addition to the existing one was considered for needy veterans to lead a decent life which they deserve.* ***Accordingly, RSBs/ZSBs were requested to ascertain the same in their area. Once the details are known, further action can be planned.*** *KSB vide their letter dated 24.11.2017 has provided the details of disabled pensioners/family pensioners retirees from Defence military budget in respect of WW-II veterans as received from various States/UTs. It has been observed that many States/UTs have not responded and KSB have stated that reminders being made to non-responsive States to forward the detail and same would be forwarded on receipt. However, the details from the non-responsive States/UTs have not been provided by KSB so far. Further, KSB vide*

		their letter dated 5.2.2018 have intimated that the data/details of WW-II is not maintained/available with them. *DS(Res.II) informed that the WW-II veterans/widows are provided financial assistance by States / UTs. After the direction of the Standing Committee on Defence (16th Lok Sabha), all the States/UTs were requested by the then Secretary (ESW) in March 2015 and Sept 2016 to enhance the amount of financial assistance given to WW-II veterans.* ***World War–II veterans are eligible for disability pension/mustering out pension as per the Pension Rules applicable during the period. The concept of War Injury Pay was introduced in 1972. The recommendation for grant of War Injury Pension was examined in consultation with CGDA and not found feasible for implementation. Majority of States/UTs have responded positively.***
9.	**2.2.9 CONDONATION OF SERVICE FOR SECOND SERVICE PENSION FOR DSC PERSONNEL:** **The Committee recommends the following on the issue:** (a) The Committee notes with concern that such a stand denying condonation of service for second pension is not only obdurate but also contemptuous since once an issue is decided by a Constitutional Court and accepted as such for many personnel and also the impugned letter read down or struck down by judicial interpretation, the DESW could not have issued another similar letter in 2012 with similar contentions to revalidate or negatively resuscitate a judicially settled issue. If such a stand were to be accepted, then even after impugned letters or provisions are read down, interpreted or struck down, various departments of the Government would simply issue them again with a different date to revalidate their actions, something which is not acceptable in a democracy which has the rule of law as its hallmark. (b) Even otherwise the reasons to deny such condonation cannot be invented when no such prohibition or reasons exist in the master regulations or letters of the Government, moreover when the second service by those DSC personnel who have not opted to add their former service in their DSC service is totally separate and divorced from their earlier service with no connection whatsoever with their former service or financial situation. Defence personnel who are joining the DSC cannot be placed at a disadvantage than their peers joining civil Government organisations who become eligible for pension after 10 years. (c) All appeals filed on the subject or in the pipeline may be withdrawn. The fresh letter issued by the DESW in the year 2012 merely reiterating the earlier letter of 1962 hence also needs to be withdrawn or directed to be ignored and *status quo ante* as accepted by judgements (supra) needs to be accepted since now it is the law of the land. Matters be conceded on a case to case basis, as was the practice earlier.	**Not Accepted :** As per Regulation 125 of Pension Regulations for the Army 1961, except in the case of (a) an individual who discharged at his own request or (b) an individual who is eligible for special pension or gratuity under regulation 164 or (c) an individual who is invalided out with less than 15 years of service, deficiency in service for eligibility to service pension or reservist pension or gratuity in lieu may be condoned by competent authority up to six months in each case. 2. As per clarification issued vide Army Hqrs letter No. 83370/AG/PS(a) dated 7th December, 1962 and 65745/P/DSC-2 dated 3rd December, 1992, the condonation of deficiency under Rule 125 of Pension Regulations for Army 1961 will not be allowed for grant of second service pension. Condonation of deficiency, under Rule 125 of Pension Regulations for Army 1961, up to six months by Officer-in-Charge Records and up to one year are being done by Adjutant General (AG). 3. The issue was earlier considered in view of few AFT judgements wherein directions were given for condonation of deficiency in service for the purpose of granting 2nd service pension. It was decided in a meeting held between Secretary (ESW) and AG on 06.02.2012 that the position would be examined and clarified. 4. CGDA to whom the matter was referred for their views/comments, had stated that condonation of deficiency in Q.S for grant of

		service pension is to be granted only on merit and in deserving cases to make individual eligible for at least one pension, however in the instant case, **the individual is already drawing pension from his 1st service therefore grant of condonation for deficiency of service for 2nd spell has no merit**. CGDA has further stated that, it is also pointed out that prior to 6th CPC, **element of weightage was not allowed to DSC personnel for grant of 2nd pension on the analogy that no dual benefit shall be allowed on same accord hence on similar lines the proposal for condonation deficiency in service for grant of 2nd service pension in respect of DSC personnel has no merit**. 5. *It was conveyed to Service Hqrs with the approval of Secretary(ESW) vide letter dated 23.04.2012 that the intention behind grant of condonation for deficiency of service for grant of service pension is that the individual must not be left high & dry but should be made eligible for at least one pension. On the principle that no dual benefit shall be allowed on same accord, it was clarified that no condonation shall be allowed for grant of 2nd service pension. The matter regarding condonation of shortfall in service towards second service pension in respect of Defence Security Corps (DSC) personnel was examined in DESW in consultation with CGDA and MoD (Fin/Pen) and with the approval of the then Hon'ble Raksha Mantri* Govt. letter No. 14(2)/2011)/D(Pen/Pol) dated 20.07.2017 has been issued vide which it has been clarified that condonation of deficiency in service is not applicable in the case of second service pension for the service rendered by personnel in DSC. Hon'ble Supreme Court (SC) in its recent orders dated 27.8.2018 in Civil Appeal No. 27934/2018 filed in the matter of Smt. Veda Devi Vs UoI & Ors. Have dismissed the SLP on the ground of delay. The Hon'ble Supreme Court vide its order dated 27.8.2018 in Civil Appeal No. 27100/2018 in the matter of Ex. Naik Mohanan T have also allowed such condonaton. However, both the orders are case specific and condonation has been allowed to the two individuals who approached the courts. The Hon'ble Supreme Court has not struck down the DESW said letter and has kept the law point open.
10	**2.2.10 BROAD-BANDING OF DISABILITY PERCENTAGES FOR THE COMPUTATION OF DISABILITY ELEMENT AND WAR INJURY ELEMENT:** **The Committee recommends that the principle of broad banding of disability percentages, irrespective of the manner of exit, be extended to all disability pensioners of the defence services as already settled by the Hon'ble Three**	***Partially Accepted:*** *Consequent upon the acceptance of the recommendations of the 5th CPC, a policy letter dated 31.01.2001 was issued by the Govt. admitting Broad-banding of Disability in respect of invalidated out Armed Forces Personnel w.e.f. 01.01.1996. 5th CPC had mentioned that where it is not feasible to retain disabled personnel and*

	Judge Bench of the Supreme Court in Civil Appeal 418/2012 *Union of India Vs Ram Avtar* decided on 10-12-2014, with financial effect from 01-01-1996 or date of release from service or date of grant of disability/war injury pension, whichever is later. Till the time such policy is issued, Government lawyers should be strictly instructed to concede such cases in Courts since continuance of defence of such cases in view of the settled position is not only contemptuous but is also resulting to a loss of both the exchequer/Union of India as well as litigants. Appeals, if pending, may be immediately withdrawn.	*are boarded out of service due to disability attributable to or aggravated by service be granted benefit of broad banding.* *7th CPC vide Recommendation para 10.2.57, has recommended* ***the broad banding of disability for all personnel retiring with disability, including premature cases/voluntary retirement cases for disability greater than 20%.*** *Govt. letter for implementation of 7th CPC recommendation in the matter has been issued on 4.9.2017 & 5.9.2017.* *The matter regarding extending the benefits of broad-banding of percentage of disability with financial effect w.e.f. 01.01.1996 or date of release from service or date of grant of disability/war injury pension whichever is later in respect of other than invalided out cases, is subjudice in Hon'ble Supreme Court.*
11.	**2.2.11 NON GRANT OF SERVICE ELEMENT OF DISABILITY PENSION TO DISABLED PERSONNEL WITH LESS THAN MINIMUM QUALIFYING SERVICE WHO ARE RELEASED FROM SERVICE OTHER THAN BY WAY OF INVALIDATION:** **The Committee, in view of the foregoing, recommends that Service Element be released to all those individuals who are released with an attributable/aggravated disability, irrespective of the manner of exit/release from service since there is no minimum qualifying service required for earning this element. All appeals filed on the subject may be immediately withdrawn.**	***Not Accepted:*** The issue was referred to office of CGDA for their comments. Comments received from CGDA vide their U.O dated 28.4.2017 reproduced as below:- (i). As per Special Army Instruction 4/5/74, w.e.f 01.01.1973, there is no minimum service criterion for grant of service element of disability pension in <u>invalided out cases</u>. This benefit has been extended to Pre-1973 invalided out pensioners vide GoI, MoD letter No. 12(28)/2010-D(Pen/Pol) dated 10.02.2014 circulated vide PCDA (P) Circular No. 527 dated 25.04.2014. However, in cases, where individual has been retained in service even after disability attributable to or aggravated by military service and subsequently discharged after fulfillment of term of engagement or at own request, <u>15 years of qualifying service is mandatory to earn service pension.</u> (ii). In case, where an individual is invalided out on medical ground being neither attributable to nor aggravated by military service, invalid pension is payable, provided, he has rendered 10 years or more but less than 15 years qualifying service. In the event of rendering 05 years or more but less than 10 years service, invalid gratuity is admissible. CGDA office is of the view that if an individual is retained on the basis of the recommendations of the Medical Board and subsequently opts for discharge from service, it may not be treated as invalided out from service and should be treated as discharged at own request.

		(iii). Further, provisions of invalid pension/gratuity also exist in civil side, where invalid pension is granted after rendering 10 years qualifying service. In the event of relaxation in minimum qualifying service i.e 15 years in case of service pension and 10 years in case of invalid pension in respect of Armed Forces personnel, demand may also arise in civil side for invalid pension in less than 10 yrs qualifying service cases. (iv). As the provisions for minimum qualifying service to earn pensionary benefits have already been made (as laid down in respective Pension Regulations for the Army, Navy & Air Force as well as CCS Pension Rules for civilians) with due consideration, therefore, this office is of the view that minimum criteria of qualifying service, to earn service pension/invalid pension should not be shaken. Department of Pension & Pensioners' Welfare may also be consulted in the matter since issue to civil servants/CPMF(Central Para Military Forces) pensioners also. 2. The Comments of **DoP&PW** to whom the matter was referred are as under: (i) In Civil side, the provisions in CS(EOP) Rules are very clear. As per Rule 9 of CCS(EOP) Rules, if a Government servant is disabled due to service and if the disability is attributable to Government service, he shall be paid either disability pension or lump sum compensation. Sub-Rule(2) of Rule 9 provides that if the Govt. Servant is boarded out of Government Service on account of his disablement, he shall be paid disability pension in accordance with the Rule. Sub-Rule(3) provides that if the Government servant is retained in service in spite of such disablement, he shall be paid a compensation in lump sum (in lieu of the disability pension) on the basis of disability pension admissible to him by arriving at the capitalized value of such disability pension. (ii) Therefore, in civil side, disability pension shall be paid only on boarding out cases. If the Government servant is retained in service in spite of that disability, he shall be paid only lump sum compensation. No option will be asked and there is no provision for any option. Only lump sum compensation will be paid in such cases. On his retirement, he shall be paid superannuation pension only as per

		CCS(Pension) Rules. If he opted for voluntary retirement as per CCS(Pension) Rules, then also, he shall be paid only normal pension as per CCS(Pension) Rules. It appears that there is difference in rules in Defence side on retained cases. In all boarding out cases and payment of disability pension, as per EOP rules, no minimum service is required for earning service element. (iii) Under CCS(Pension) Rules, minimum 10 years of service is required for earning pension. A civil servant can apply for voluntary retirement after 20 years of qualifying service and entitled for pension. Under Rule 38 of CCS(Pension) Rules, Invalid pension is also available for any mental or bodily infirmity, which permanently incapacitates a Government servant for the service. 3. Regulation 50 of PRA, 1961 bars payment of Disability pension to Defence Forces personnel who sought voluntary retirement. On the recommendation of 6th CPC, MoD letter dated 29.09.2009 was issued under which Defence Forces Personnel who were retained in service despite disability (due to attributable to or aggravated by service) & foregone lump-sum compensation were allowed disability element/war injury element on their retirement whether voluntary or otherwise in addition to **retiring/ service pension or gratuity** as per their length of qualifying service. This provision was made for post 2006 retiree. Vide MoD order dated 19th May 2017, this provision has been extended for pre-2006 retirees also. 4. As the Defence Force Personnel who are invalided out (only) from service due to disability attributable to or aggravated by service are entitled for service element of disability pension & there is no condition of minimum qualifying service required for service element of disability pension in invalided out cases. In view of CGDA comments there is no case for extending the benefit of granting service element of disability pension in other than invalided out cases viz. the personnel who seek voluntary retirement/ discharge at own request and found some disability at the time of discharge/PMR/VR which is assessed as attributable to or aggravated by Military service. It may also be seen from DoP&PW comments that there is no provision of disability pension in other than boarded out cases. 5. Since the CGDA does not support the proposal for grant of service element of disability pension in other than invalided out cases and no such provision exist in Civil side, the demand cannot be equated at par with those

		Defence Forces Personnel who are invalided out with disability attributable to or aggravated by Military service. Further, this will encourage the tendency of proceeding on voluntary retirement/discharge at own request by the Defence Forces personnel and the Defence Forces, thereby, will lose trained and experienced defence personnel which also cause extra financial burden to the exchequer. 6. In view of above discussion, there appears to be no case for consideration of the proposal.
12.	**2.2.12 DUAL FAMILY PENSION TO MILITARY WIDOWS WHO ARE DRAWING PENSION FROM A CONTRIBUTORY OR NON-GOVERNMENT SOURCE OR FUND OR TRUST FROM THE CIVIL SIDE, FROM THE DATE OF DEMISE OF THE MILITARY PENSIONERS, RATHER THAN 24-09-2012:** **The Committee hence recommends that while the benefits of double family pension may be restricted w.e.f 24-09-2012 in terms of GoI/MoD Letter dated 17-01-2013 for family pensioners earning their second pension from a purely Government source, the same may be released from the date of death of the pensioner in all cases where the pension from the civil side is from a non-government fund or contributory fund or any other pension trust or source as already interpreted by Courts and Tribunals and upheld as such by the Supreme Court in *Leela's* case and *Veena Pant's* case (supra). All such cases pending before Courts or arising in the future may be directed to be conceded and pending appeals withdrawn.**	**Not accepted :** Raksha Mantri's Committee of Experts vide Para 2.2.12 recommends that while the benefits of double family pension may be restricted w.e.f 24.9.2012 in terms of MoD letter dated 17.1.2013 for family pensioners earning their second pension from a purely Government source, the same may be released from the date of death of the pensioners in all cases **where the pension from the civil side is from non-government fund or contributory fund or any other pension trust or source** as already interpreted by Courts and Tribunals and upheld as such by the Supreme Court in Leela's case and Veena Pant's case (supra). All such pending before Court or arising in the future may be directed to be conceded and pending appeals withdrawn. 2. Dual family pension has been implemented on the recommendation of Cabinet Secretariat Committee 2012. As per para 4 of MoD letter dated 17.01.2013 this provision shall be applicable to the Armed Forces Personnel who got discharged/retired/invalided out from service with effect from 24.9.2012 or thereafter. Benefit of these provisions shall also be allowed in past cases however the financial benefit shall be granted from 24.9.2012. 3. CGDA to whom the matter was referred, vide their letter dated 6.7.2017 intimated that prior to issue of GOI MoD letter No. 1(5)/2010-D(Pen/policy) dated 17.1.2013 allowing military family pension in addition to civil family pension to families of Armed Forces personnel re-employed in Civil Deptts/PSUs/Autonomous bodies/local funds, families of Armed Forces personnel re-employed in organizations covered under Employee Pension Scheme(EPS)-1995 and Family Pension Scheme(FPS) 1971 were eligible for defence pension since 27.07.2001 vide MoD letter No. 2/CC/B/D(Pension/Policy)/2001 dated 28.8.2001. No other non-Government fund or contributory fund or any other pension trust or

		source was notified in the ibid letter or in any subsequent orders. Hence any comments on the issue can only be offered after non-Government source or contributory fund or any other pension trust or sources are identified by Ministry. 4. Accordingly, three Services were requested to identify the non-government source or contributory fund or any other pension trust or pension source from which first family pension is being drawn by Military Widows as referred in para 2.2.12 of the recommendations. Service Hqrs. have intimated that the requisite information is not available with them. 5. Vide MoD letter dated 28.8.2001, DoP&PW notification No. 1/19/96/P&PW (E) dated 27.7.2001 was made applicable mutatis mutandis to Armed Forces Personnel who were re-employed in the Organizations/ Establishments where EPS 1995 and FPS 1971 are in force. In view of this the file was referred to DoP&PW with a request to intimate the non-Government source or contributory fund or any other pension trust or sources. 6. DoP&PW have intimated that *as per sub-rule 54 of CCS (Pension) Rules, 1972 which existed before 27.07.2001, "Family Pension admissible under this rule shall not be granted to a person who is already in receipt of family pension or is eligible therefor under any other rules of the Central Govt. of a State Govt. and/or Public Sector Undertaking/Autonomous Body/Local Fund under the Central or a State Government:" Provided that a person who is otherwise eligible for family pension under this rule may opt to receive family pension under this rule if he forgoes family pension admissible from any other source." One more provisno was inserted vice notification dated 27.07.2001 which states, "Provided further that family pension admissible under the Employees Pension Scheme, 1995 and the Family Pension Scheme, 1971, shall, however, be allowed in addition to the family pension admissible under these rules." However, in 2012 sub-rule (13-B) was deleted vide GoI, DoP&PW Notification No. 1/33/2012-P&PW(E), dated 27.12.2012. As per the amended rule, as it existed today, family pension under CCS(Pension)Rules, 1972 is admissible in addition to family pension from any other source.* ***Further, DoP&PW has no information regarding the other source from where family pension is admissible****, apart from the EPS 1995 and FPS 1971.* 7. Prior to issue of GOI MoD letter No. 1(5)/2010-D(Pen/policy) dated 17.1.2013,

		families of Armed Forces personnel re-employed in organizations covered under Employee Pension Scheme(EPS)-1995 and Family Pension Scheme(FPS) 1971 were eligible for defence pension since 27.07.2001 vide MoD letter No. 2/CC/B/D(Pension/Policy)/2001 dated 28.8.2001. Hon'ble High Court of Kerala in WP(C) No. 22963 of 2007(H) in the matter of Smt. Leela held that *the disability of a widow to receive family pension from the Air Force, inter-alia, arises only when she is the recipient of a family pension from the Government. The New India Assurance Company, obviously, cannot be equated with a Government, though it is a statutory body and a General Insurance Company, a* ***Government of India undertaking****. Therefore, the petitioner whose husband was re-employed in New India Insurance Company covered under EPS, 1995, is entitled to family pension from the Air Force from the 1st day of the month following the death of her husband.* 8. Hon'ble AFT(PB), New Delhi vide its order/judgement dated 31.10.2012 in OA No. 116/2012 in the matter of Smt Veena Pant has held that *there is no prohibition which has been bought to our notice from the Air Force Pension Regulation nor did we find any prohibition in the Pension Regulation for the Army, 1961 which prohibits dual pension to a person who have put in requisite service for getting a pension on account of completion of his service in the Army or Navy or Air Force which prohibits grant of family pension to the personnel from the Armed Forces who have put in requisite qualifying service for pension. Therefore, we are of the opinion that the denial of the family pension to the petitioner in view of the death of her husband is not justified.* 9. In view of the orders/judgements in the above cases it has been observed that the Hon'ble High Court of Kerala and AFT(PB), New Delhi has held that family pension from military side cannot be denied to the family of Armed Forces personnel who had put up pensionable service. Military pension in addition to civil family pension to families of Armed Forces personnel re-employed in Civil Deptts/PSUs/Autonomous bodies/local funds etc. has already been allowed w.e.f. 24.09.2012 vide MoD letter dated 17.01.2013. Further, the information regarding **non-government fund or contributory fund or any other pension trust or source** is not available with CGDA, Service Hqrs. and DoP&PW. In view of the above, the recommendation of Raksha Mantri's Committee of Experts vide Para 2.2.12 for grant of second family pension from the date of death of the pensioners instead of 24.09.2012 in all cases **where the pension from the civil side is**

		from an non-government fund or contributory fund or any other pension trust or source cannot be examined further.
13.	**2.2.13 RESERVIST PENSION TO RESERVISTS RELEASED FROM SERVICE COMPULSORILY PRIOR TO COMPLETION OF PENSIONABLE COLOUR + RESERVE SERVICE:** **The Committee hence recommends that the decision as rendered by the Supreme Court in *Baldev Singh's case* (supra) be implemented in the same terms and all such similarly placed affected personnel be released "Reservist Pension". All pending and future cases in Courts and Tribunals be conceded and all appeals be withdrawn.**	***Under Examination:*** *On completion of the prescribed combined colour and reserve qualifying service, of not less than 15 year, a reservist pension equal to 2/3rd of the lowest pension admissible to a Sepoy, but in no case less than Rs. 375/- p.m (now revised @Rs. 9000/-p.m) may be granted. On the recommendation of 4th Pay Commission, Pension Regulation was amended by linking the pension of reservist to that of a Sepoy, thereby automatic increase in the pension of a reservist with increase in the pension of a Sepoy.* *There is no parity in pension of reservist and Sepoy of regular Army as there is difference in nature of their qualifying service. They are not entitled for regular pension or equivalent pension of Regular Army.* *However, the issues '**whether the benefit of One Rank One Pension (OROP) is to be extended to Reservist**' **referred to Judicial Committee on OROP** vide Govt. letter dated 20.7.2016 to examine and make recommendation. The Committee submitted its Report on 26.10.2016which is further being examined by an Internal Committee.* *The issue raised in the Expert Committee has been examined and linked with the reference made to the One Member Judicial Committee (OMJC) on OROP as to whether the benefits of OROP is to be extended to Reservists. Accordingly, it has been decided to keep the matter pending till the decision on report of OMJC is taken.*
14.	**2.2.15 NON ACCEPTANCE OF DECLARATION OF BATTLE CASUALTY AND NON-GRANT OF WAR-INJURY OR LIBERALIZED BENEFITS TO CASUALTIES IN OPERATIONAL AREAS:** **The Committee thus recommends that in terms of the very liberal nature of applicable policy and decisions of Constitutional Courts, the deaths and disabilities arising in notified operations may continue to be granted disability and liberalized pensionary awards without hyper-technically insisting on hairsplitting requirements that do not actually exist in the rules. It is further recommended that the Services HQ may continue awarding 'battle casualty' status to their personnel under their own instructions since the status of 'battle casualty' is not just restricted to pensionary awards but encompasses many other issues such benefits and grants from welfare funds, ex-gratia by States, posting and cadre management etc. The Committee also**	***Partially Accepted :*** ***As per existing Rule positions, the pensionary benefits of Armed Forces Personnel are*** granted based on the fulfillment of conditions/circumstances cited in GoI MoD letter dated 31.01.2001 with respect to attributability to or aggravation by military service. *Govt. orders dated 07.03.2018 for inclusion of accidental death/injury due to natural calamities while performing in **operational duties**/movement during deployment on LAC under category D of Para 1 Clause (iii) of MoD letter dated 03.02.2011 making them eligible for LFP has been issued.* As regards notifying **Operation Falcon**, the

	recommends that all such cases taken up by the Services HQ and pending with the Defence Accounts Department for release of benefits may be cleared within a period of 4 months by intervention of the MoD so as not to prolong the agony of the affected disabled soldiers or the affected military widows and all necessary amendments in service record and pensionary documents be carried out consequently. Deaths and disabilities occurring in Operation Falcon must also be covered under the same terms and conditions as under other notified operations and if need be, the said operation may be declared as equal to other notified operations for financial benefits.	matter was considered by G-Wing of MoD and was not agreed to in view of the following reasons: (a) Border management is the primary role of Army. Forward deployment to safeguard border cannot be treated at par with mobilization for war or war like situation. (b) This will set a wrong precedent and have far reaching financial implications in all such case of mobilizations as there would be similar proposals for declaration. (c) It will also open up large number of old case of compensation on account of death/injury in last 27 years and in future. (d) Troops deployed in the proposed operation area are already drawing field service allowance as applicable and benefits of liberalized pension and ex-gratia payment as per the definition of death and disability. (e) Higher compensation along the Indo-China border as accorded to troops deployed along LC is not justified as war like situation prevails along the LC as compared to the LAC..
15.	**2.3.1 ILLEGAL DENIAL OF OUTPATIENT MEDICAL FACILITIES BY SERVICE MEDICAL HOSPITALS TO NON-PENSIONER EX-SERVICEMEN DESPITE BEING APPROVED BY THE MINISTRY AND THE ADJUTANT GENERAL'S BRANCH, AND CONSIDERATION OF GRANT OF MODIFIED ECHS FACILITIES TO SSCOs :** **The Committee recommended that :** (a) Existing limited outpatient medical facilities in MHs to non-pensioners holding the status of Ex-servicemen to continue as per already approved instructions and Services HQ to continue issuing and honouring Medical Entitlement Cards for such facilities as was the case till late 2000s. The entitled non-pensioners also continue to be eligible for medical reimbursement from Kendriya Sainik Board. It may be pointed out here that the said facilities are anyway not entitled to be granted to re-employed ex-servicemen or those who are members of any medical scheme. (b) The unethical appeal filed against grant of such facilities to own personnel to which actually they were legally entitled to, be immediately withdrawn and such ego-fuelled actions be avoided in the future. **We wish such persistence and exertion in pursuing such misdirected litigation is rather used for constructive activities.** (c) ECHS facilities for SSCOs as mentioned as already approved in-principle by the then Raksha Mantri and mentioned in the Parliament on the floor of the House, be implemented forthwith by overcoming all objections. The same be made applicable to all SSCOs and ECOs and all other personnel released without the benefit of pension but on completion of terms with a gratuity, present and former, with certain amendments as deemed appropriate such as that the scheme can only be extended to the officer and spouse alone and that it would not apply to those who are re-employed with a cover of an organizational medical scheme. The issue of financial implication may not be relevant since firstly the scheme is contributory in nature, and secondly, the then Raksha Mantri has already made a statement to the effect on the floor of the house. Besides bringing succour to our	**Accepted :** The recommendation under para 2.3.1 is partially related to D(WE/Res-I) in respect to grant of ECHS facilities to SSCo/ECOs. This recommendation has been implemented as the **SSCOs/ECOs** including World War II Veterans and Pre-matured retirees have been granted ECHS facilities vide DoESW Letter No. 17(11)/2018/WE/D(Res-I) dated 07.03.2019.

	veterans, it would act as a major morale booster to the rank and file and also help attract talent to the Short Service Commission Scheme. (d) It is recommended that the Government must go all out to bolster the resources of the military medical establishment since they are rendering impeccable services in trying circumstances to our men and women in uniform. There should never be an occasion wherein doctors perform duties under pressure. An environment free of all encumbrances, external constraints and stress must be ensured for the medical establishment to function in an efficient manner.	
16.	**Para 2.3.3 : Non-inclusion of military pay and other elements of emoluments during fixation of pay on re-employment of military pensioners on the civil side.** (a) DOPT be informed regarding existence of Gazette Notification dated 30.8.2008 ordaining that MSP is to be included for pay fixation, MSP was granted to retain and maintain the already existing edge as becomes clear from 6th CPC Report. MSP would count for both fixation of pay and pension. (b) Ministry of Defence letter dated 24.7.2009 does not include MSP due to the reason that when such former Defence employees are re-employed in the defence services, they are granted MSP in addition to their pay during their re-employed service. Hence MSP is not counted for pay fixation so that double benefit of MSP is not granted. On the other hand when Defence personnel are re-employed on civil side, MSP is not admissible along with their pay and can only be granted during pay fixation, DOPT letter dated 8.11.2010 results in double denial of MSP during re-employment. (c) MoD's letter dated 24.7.2009 is applicable only for re-employment within defence services, it pertains to officers only. All such concepts as Classification Pay, X Group Pay and Good Conduct Badge Pay etc. need to be protected as was the case till issuance of instructions by DOPT. The defence of one of the officers deposing before the Committee that MSP is not being counted in fixation of pay since element of MSP at 50% is already being drawn in pension has not legs to stand upon and makes in entire concept of pay fixation redundant since in the same manner even 50% of the regular pay and Grade Pay drawn during military service is being drawn in pension and if that be so, then even pay and Grade Pay would not be counted for pay fixation on re-employment on specious plea that 50% of the same are being drawn in pension. (d) Ministry of Defence letter dated 24.7.2009 has been blindly adopted without realizing that it had not applicability to re-employment on the civil side. The Committee would call upon all officers on critical appointments to properly apply mind and analyse such issues in the correct perspective since such actions not only result in frustration and issues in the correct perspective since such actions not only result in frustration and upheaval amongst former employees but also lead to needless litigation.	**Not Accepted :** The matter was taken up with DOP&T. DOP&T have, inter alia, informed that though the Military Service pay is not being allowed in fixing the pay on re-employment, however, at the time of deduction of the pension from the pay so fixed, the element of MSP in the pension is being ignored. Thus, the benefit of edge of the MSP which re-employed ex-servicemen carries with him after his retirement from defence service, is again being allowed to him/ retained by the pensioner in his pension while in civil employment, as an edge over the civilians. Also, if the MSP is taken into account for fixation of pay on re-employment, it would become part of the basic pay and would automatically qualify for increments and other allowances. This would be contrary to the recommendations of the 6th CPC as per which the Military Service Pay shall count as pay for all purposes except for computing the annual increments (Para 2.3.13 of 6th CPC Report). Moreover, in such a situation, it would be nothing less than granting Military Service Pay in civil employment which would again not be in order since the Military Service Pay is an element allowed by 6th CPC to personnel/officers for serving in the defence forces only. In view of above, DOP&T is of the view that their extant instructions on the subject, in so far as they apply to re-employment in Civil Services and Posts, adequately take care of the edge given to the military personnel over civilians while coming on re-employment on civil side; and the recommendations of the Raksha Mantri's Committee of Experts on Military Service Pay **can not be accepted.**

17.	**Para 2.4.1 : Collegiate system of decision-making:** We recommend that the decisions on important issues of policy and verdicts of Courts must be taken in a collegiate manner with face to face meetings rather than on file by involving all stakeholders, including voices of affected employees whenever a holistic view of the matter is required.	**Partially Accepted :** It is a policy matter to be decided in the Ministry and it does not pertain to D/o ESW alone. As far as DESW is concerned , the suggestion has been noted and will be considered depending upon the nature of the case.
18.	**Para 2.4.2 : Non-implementation of decisions and flouting of existing guidelines on implementation of judicial verdicts:** (a) Decisions be implemented within the time-frame as directed in the said judicial verdicts. Filing of appeals should be an exception rather than the rule and even in cases where appeals are decided to be filed after a proper collegiate decision. Verdicts should be implemented if the appeal is not filed in time and of course when even an appeal is filed but no stay is granted on the same by the higher Court. Instructions in this regard have already been issued by the CMU/DoD and the same be followed scrupulously. In case of award of costs, interest or adverse order against the Chiefs of the Services or the Defence Secretary, responsibility be fixed on those officers who kept the files pending for an undue period and an entry be recorded to the effect in their service dossier after following due procedure. (b) The reasons given about the lack of manpower or elaborate procedures involved for implementing decisions have no legs to stand upon and cannot be pretexts for non-implementation of Court orders. The system has to revolve around judicial verdicts and adjust itself with the changing times, and not the other way round. The Courts cannot be expected to alter their functioning in accordance with the tailor-made needs of the slow-moving wheels of the official establishment. In case it is felt that procedures or layers need to be reduced then a decision be taken in a collegiate manner under the aegis of the Defence Secretary to put into place a well-oiled machinery of implementation without delay. The discussion may also include the issue of lack of automation rightly raised by the DESW. Again, we would like to point out an issue flagged by us in the introduction of this Report that it was interesting to observe that rather than adhering to the spirit of reducing appeals and litigation and faster implementation of Court orders rendered in favour of employees/former employees by cutting through red-tape as propounded by the Hon'ble Raksha Mantri and also by the Hon'ble Prime Minister, the focus of some officers has remained 'filing faster appeals', which in fact runs counter to the very noble intentions of the political executive in this regard. (c) Though the Services HQ have been delegated powers for implementation of decisions**,** the same is restricted to cases where no appeal is contemplated which itself narrows down the scope of implementation in a majority of cases since, according to the current attitude, all cases which are perceived to be against 'Government Policy' are being processed for appeals, including those cases where even the MoD and the Services HQ agree that the policy has already been interpreted in favour of soldiers and veterans or that the policy requires change. All other cases are sent to the MoD (JS ESW) for conditional implementation. There is a need to clarify or to extend the power of conditional sanction also to the Services HQ as was being done till a few years ago but was discontinued due to interpretational issues within the Ministry. The Services HQ may also be given the power to sub-delegate powers to Record Officers in certain batch/bunch	**Accepted :** All efforts are being made to implement the Court's Orders in time after ascertaining legal opinion, wherever required. Set procedure is followed for consultation with LA(Defence), Ld ASG and Ministry of Law & Justice as per Govt instructions. Whenever the court order is as per Govt policy, no civil appeal is filed.

	matters such as the 'Honorary Naib Subedar' case where the law is well settled, in order to obviate the unnecessary and infructuous movement of files and wastage of taxpayers' money.	
19.	**Para 2.4.3 : Overreliance on MoD (Finance) and Finance entities for decisions and policy formulation**: (a) Appellate bodies dealing with death and disability benefits would meet face to face in a Collegiate manner and not decide matters on file. (b) Finance representatives may not be allowed to override the opinion of other Members and all decisions be taken by majority since these issues require a medical analysis and legal inputs based on Supreme Court decisions and not a calculation of benefits. The judicial decisions on disability pension are anyway binding on all parties, including this Committee, and we would like to reiterate our advisory in Chapter I that such instances of overriding executive decisions and Court orders are contemptuous and we must reiterate that under Article 144 of the Constitution, all authorities are to bow down to the majesty of the law laid down by the Supreme Court and act in the aid of the Supreme Court. (c) Policy decisions envisaged or being deliberated upon by competent authorities should be endorsed to finance side or the office of CGDA only for calculating of financial aspects or implications but not for desirability of the decision based on merits of the issue which falls purely in the executive domain as per Rules of Business. (d) The staff dealing with pensionary claims and casualty benefits must gain first-hand experience on the existing conditions in which our men and women in uniform operate so as to sensitize them about the same. The said exposure must not be a mere formality but an authentic exercise.	**Not Accepted :** Consultation with MoD(Finance) and CGDA is required to be done on case to case basis and cannot be done away with.
20.	**Para 2.4.5 : Lack of availability of correct talent and inputs to DESW and functioning of the Standing Committee for Welfare of Ex-Servicemen:** (a) The dearth of proper experts and correct inputs to senior officers and decision making authorities in the DESW as pointed out to the Committee is well appreciated and it is recommended that cross-postings may be made to the DESW from the Services HQ with officers who are sensitized, sensitive and knowledgeable and experienced in such matters. Such an arrangement should not be resisted but should be gladly accepted with open arms since the primary aim of DESW is to work for the welfare for veterans and their families and any step to meet that aim should be willingly adopted and would reflect true integration of the Ministry with the Defence Services. A start could be made by posting officers with Grade Pay Rs 8700 (Colonels or equivalent) at a Director level appointment in DESW. We must add here that we have been informed that such a proposal had been initiated in 2010/2011 but resisted by the DESW. In addition, or case of dearth of serving officers, retired officers of the three services and of the civil services or independent experts with experience in the field may be appointed as Consultants on contract. To ensure objective viewpoints, care may be taken not to employ those	**Partially Accepted :** (a) Department of Ex-servicemen Welfare (DESW) formulates various policies and programmes for the welfare and resettlement of Ex-servicemen (ESM) in the country. The Department has two Divisions viz. Resettlement and Pension and it has 3 Attached Offices, namely, Kendriya Sainik Board Sectt. (KSB Sectt.), Directorate General Resettlement (DGR) and Central Organisation Ex-servicemen Contributory Health Scheme (CO ECHS) through whom this Department executes its policies/schemes/programmes. These attached offices are manned by serving Armed Forces Personnel. (b) These three Attaches Offices are manned by Service personnel of the rank Lt. Col. To Maj. Genl. and the supporting staffs are mainly ex-servicemen. All the policies and schemes are initiated in these attached offices of DESW. The final decision on these schemes/ policies is

	officers as Consultants who have at any time worked within the DESW during their service. (b) The Standing Committee of Welfare of Ex-Servicemen should meet at regular intervals as envisaged and already notified and all major pensionary and policy decisions should also be discussed threadbare in the meeting so as to seek inputs of the end-users of those policies and not to keep them in the dark. Regular inputs of identified experts must be taken by senior officers of DESW so as to arrive at well balanced decisions and not always be guided by what is put up to them by the official machinery. It is further seen that only 3 recognized associations have been made a part of the Standing Committee. This cannot be treated as a just form of representation and the Ministry must call at least 3 more registered (not necessarily recognized) associations on rotation for each meeting. A notice must be issued and widely circulated on official websites calling for names of registered Veteran/Ex-Servicemen/Pensioner organizations who may want to attend meetings of the Standing Committee. Further representatives of all ranks may be duly consulted in the Standing Committee.	taken in DESW/MOD after consulting the matter with Service HQs, whenever/wherever required. This gives adequate opportunity to Services personnel to provide inputs for policies/ programmes formulated and implemented in DESW. (c) Further, Pension/Policy and Pension/Legal issues are settled in consultation with Service HQs, CGDA and LA(Defence). Various Ex-servicemen Associations and ESM are also consulted. Officers from CGDA who are expert in the field are posted in Pension Grievances Unit for speedily settlement of Grievances as in the process of settling Pension Grievances does not require any specific expertise of Service Personnel. (d) Further, serving personnel have following limitations viz-a-vis working of Sectt. of the Ministry/Departments:- (i) Not familiar with Secretariat's functioning e.g. appraising agencies, levels of approval involved. (ii) Their noting /drafting skills are not tuned as per Sectt.'s practices. (iii) They do not have required knowledge & training about various rules/ regulations/ procedures used in the Secretariat. In view of position explained above, DESW does not support cross posting of officers from Service HQs to DESW. (e) With reference to recommendation No. 2.4.5 (b), it is intimated that in the Standing Committee for Welfare of Ex-Servicemen representatives of three recognized associations viz. Disabled War Veterans, Indian Ex-Services League and Air Force Association are members of the Committee. The meetings of the Committee have been held on 24.10.2016 and 01.03.2017 which have been attended by representatives of Indian Ex-Servicemen Movement and Akhil Bhartiya Poorva Sainik Parishad in addition to the three recognized Associations. Another meeting of the Standing Committee for Welfare of Ex-servicemen was held on 16.2.2018. This meeting was attended by three Associations viz. National Ex-Servicemen Coordination Committee, Indian Ex-Servicemen Movement and Akhil Bhartiya Poorva Sainik Parishad in addition to three

		recognized Associations. **Therefore, the recommendation No. 2.4.5 (b) has already been implemented by this Department.**
21.	**2.4.7 Unnecessary red-tapism and hyper-technical requirements of forms, affidavits etc. which militate against the spirit of the Hon'ble Prime Minister's vision for citizens:** **The Committee hence recommends the following:** (a) Keeping in view the vision of the Hon'ble Prime Minister and the Hon'ble Raksha Mantri, a concerted review shall be carried out of all forms, affidavits and undertakings related to pensionary provisions and these shall be discontinued to the maximum extent possible. As the first step, there shall be no requirement of undertakings or prescribed formats for representing against rejection of disability/war-injury pension etc even in old cases and arrears shall simply be regulated as per the Ministry's letter dated 10-11-2010. A representation/appeal even if submitted on a single page shall suffice and no attempts shall be made by the establishment to reject/return such representations on hyper-technical objections. Disabled soldiers can also not be made to submit such certificates/undertakings when it was due to the lopsided official policies that no documents were even provided to such affected retirees who could not have then effectively appealed due to non availability of their own medical documents and medical board proceedings. Additionally, all personnel on release, irrespective of the manner of exit, may be optionally provided copies of all medical documents, including medical reports etc, related to a person's health or medical status throughout his/her service. (b) Formats which increase red-tapism and shift the burden of work from the official system to old retirees, pensioners, disabled soldiers and widows, such as the formats prescribed with letters issued by the Ministry regarding Service Element and Broad-banding/rounding-off may be abrogated immediately and care be taken in the future not to encumber our retirees with such red-tapism. It may be recalled that such a decision already stands taken by the Secretary ESW earlier in 2012 but not honoured by the concerned agencies.	***Under Examination :*** *The matter is under examination in consultation with CGDA, LA(Defence), DoP&PW and Service Hqrs. of three Services.*
22.	**2.4.8 Suspect Legality of Pension Regulations, 2008 and Entitlement Rules, 2010:** **The Committee hence strongly observes that the so-called 'Pension Regulations, 2008' or the 'Entitlement Rules, 2010' have no sanctity of law as far as alteration of entitlements is concerned. The same can at best be adopted to regulate procedural aspects and if there is a conflict between the same and the actual Pension Regulations 1961 or actual Entitlement Rules 1982 thereby affecting the rights of**	***Partially Accepted :*** *As per Para 3 of Transaction of Business Rules, 1961, as amended from time to time, all business allotted to a Department under the GoI (Allocation of Business, Rules 1961, shall be disposed of by, or under the general or special directions of, the Minister-in-charge. As per Allocation of Business, Rules 1961, as amended from time to time, administration of the Entitlement Rules to Casualty Pensionary*

	pensioners negatively, then the Regulations of 1961 and Rules of 1982 shall prevail to determine the entitlement. The Committee also recommends that any such changes in the future may be perused by senior officers of the Ministry with the minutest eye so that no amendment of beneficial or welfare oriented provisions is carried out by a sleight of hand. In fact, any change that may be recommended should be first put before the Standing Committee for Welfare of Ex-Servicemen as discussed in preceding parts of this Report. We would have recommended an enquiry into the officers involved in this crude attempt to change the entitlements of pensioners and disabled soldiers but refrain ourselves from doing so since many officers involved in this episode would have retired by now.	*Awards to the Armed Forces Personnel has been allotted to DESW.* *Many policy changes have taken place after issuance of Pension Regulations for the Army, 1961 and Entitlement Rules for Casualty Pensionary Awards, 1982 by various policy orders issued from time to time with the approval of Competent Authorities.* *The Pension Regulations have been amended form time to time through policy letters issued* ***with the approval of Competent Authority****. Further, policy letters are issued in implementation of recommendations of Pay Commission, Hon'ble AFT/Supreme Court's judgement/orders, Cabinet Secretary Committee recommendations and proposals received from Services and Ex-Servicemen associations after due consultation with CGDA,* ***DoP&PW****, Service Hqrs, Department of Expenditure through MoD(Finance/Pension) and with the approval of competent authority.* *Further, several pension policy letters have been issued in pursuance of the policy letters issued by DoP&PW for the Civilian Employees. On several occasions, DoP&PW has stated that "Defence personnel are governed by different sets of rules framed under Army Act, Naval Act and Air Force Act and the CCS(Pension) Rules and CCS (EOP) Rules are not applicable to them. In view of this, MoD being the Administrative Ministry may take an administrative decision taking into consideration the rules and regulations applicable in case of Defence personnel."* *Entitlement Rules for the Casualty Pensionary Awards 1982 have also been superseded by Entitlement Rules for the Casualty Pensionary Awards 2008 (issued vide MoD letter dated 18.01.2010). It has been mentioned in the MOD letter dated 18.01.20210 that the Entitlement Rules 2008 shall apply in cases of disablement or death of service personnel who became non-effective on or after 01.01.2008.* *All Govt. orders issued upto 6th CPC were compiled into PRA-2008. The draft regulation for Army, Navy and Air Force after incorporating all the Govt. orders up to 7th CPC is under process in consultation with CGDA, PCDA(P), three Services including Ministry of Law & Justice.* *Meeting of Standing Committee for Welfare of Ex-servicemen is held under the Chairmanship*

		of Hon'ble RRM from time to time. Representatives from Ex-Servicemen associations, DGR, KSB, CGDA/PCDA, ECHS and other stakeholders are the participants. The issues related to pensionary matters of Defence forces personnel are deliberated therein.. *It may be seen from above discussions that Pension Regulations for the Army, 2008 and Entitlement Rules-2008 (issued in 2010) are* ***valid documents.*** *In view of this, the observation of Expert Committee that Pension Regulation 2008/Entitlement Rule have no sanctity of law is not correct. Placing of pension policy order before Standing Committee for welfare of Ex-Servicemen prior to issuance is neither mandatory nor practical. As and when required, comments of Services and other stakeholders including* ***DoP&PW*** *are obtained before issue of Govt. order.* *The observations of the Committee that* **any such changes in the future may be perused by senior officers of the Ministry** are *already in vogue in this Department as approval of competent authorities i.e. approval of Secretary (ESW), Hon'ble RM and concurrence of Department of Expenditure is obtained in case of policy change. The approval of the Cabinet is also obtained whenever requires. Further, the Defence pension issues are also discussed in the meeting of Standing Committee for Welfare of Ex-Servicemen from time to time.*
23.	**<u>Para 7.1 : Lateral induction and re-employment</u>** **<u>(a</u>**) The desirability of protection of the status (not just pay) as per military rank or length of military service of ex-servicemen who are reemployed on the civil side or offering them lateral appointments consistent with their status and experience. (b) The desirability of inception of a proper coordination cell on ex-servicemen employment issues in the DoPT or the DESW since policies related to the same are under the purview of DoPT and there is lack of coordination between the DoPT and the MoD/DESW/Services HQ leading to undue delays on decisions on any issues cropping up based on such policies. (c) Improvement of educational qualifications and skill development should be an ongoing process while in service and should be adequately stressed upon. Methods be explored for a higher configuration with organizations such as FICCI on mutually acceptable terms. (d) The vacancies reserved for Group D should be amalgamated into Group C on the abolition of the former. Also, it should be ensured that JCOs are not offered and are discouraged from	**Partially Accepted :** **<u>Point 7.1 (a)</u>** (i) With regard to the lateral induction of the Armed Forces Personnel in the Central Para Military Forces (CPMF), it is submitted that the lateral induction is required to be done of the in-service Armed Forces personnel. This matter was taken up with MHA who have informed that a Committee was constituted under the Chairmanship of DG CRPF with all other DGs of the Forces as members to examine the matter. The Committee did not find the proposal of induction of Servicemen/Ex-Servicemen in to CAPFs, RAF and Cobra Battalions good for operational performance of CAPF. **(Not accepted)**

	taking appointments lower than their erstwhile military status and are offered appointments commensurate to their status and service. (e) Examine the desirability of gainfully employing veterans by way of formulation of a veterans' body for involving them in constructive activities and nation building.	(ii) A proposal to provide reservation of 10% in Group 'B' (Non-gazetted) for direct recruitment posts and to provide reservation of 20% in Group 'C' Direct recruitment posts in Central Government jobs has been taken up with DOP&T. However, after careful consideration of the proposal in consultation with other Ministries/Departments, DOP&T stated that the proposal regarding providing 10% reservation in Group 'B' posts and 20% reservation in Group 'C' posts to Ex-Servicemen for vacancies in the posts to be filled by direct recruitment, if agreed to, will not serve the desired purpose. However, every effort is made to provide jobs to ESM commensurate with their status and experience. **(Not accepted)** (iii) From the half yearly reports on monitoring of reservation prepared by DGR it is observed that even the existing reservation available in Group C and D posts is not completely achieved by Central Government Ministries/Departments, Banks/Financial Institutions and Public Sector Enterprises. This Department has requested DOP&T, DPE and Department of Financial Services to issue necessary instructions to Departments/Organizations/Offices under their control to comply with the reservation policy for Ex-servicemen. Further, matter regarding enforcement of the instructions was discussed with DOP&T who informed that for SC/ST/OBC, DOP&T have a system of appointing Liaison Officers in Ministries/Departments who are responsible for implementation of the Roster System. It was proposed by DOP&T that a similar system for reservation for ESM can be adopted for which DOP&T can issue a separate OM. DOP&T have prepared draft instructions and sought the comments of stakeholders before finalizing. O.M. by DOP&T

		regarding appointment of L.O. is expected shortly. **(Accepted)** **<u>Point 7.1(b)</u>** The mandate of Department of Ex-Servicemen Welfare itself is to look after the issues relating to Welfare of Ex-Servicemen. A cell exists in DESW to coordinate with other Departments to ensure timely execution and implementation of welfare activities of ESM. The cell is manned by a Director, Under Secretary, Section Officer and other support staff. The different divisions set up in DESW are looking after different aspects of welfare of ESM such as Pension Policy matters, resettlement matters, ESM health related issues, various grants to ESM and their family members, public grievances of ESM on different matters. Divisions of Department of Ex-Servicemen Welfare themselves take up the matter with concerned Ministry/Department for resolution of the problems faced by ESM. The matter regarding amendment of Policy or formulation of new policy regarding reservation in jobs/providing relaxed standard in selection/enhancing the age etc. relating to ESM/dependents of ESM killed in action is taken by the MoD, D/o ESW with DOP&T/ D/o Financial Services/ D/o Public Enterprises and even with the State Governments very promptly. However, recommendations of the Committee for setting up a separate cell are **<u>accepted</u> subject to availability of additional staff for this purpose.** **<u>Point 7.1(c)</u>** An MoU has been signed between Ministry of Defence and Ministry of Skill Development & Entrepreneurship on

		13th July, 2015 related to skill development for provisioning of better certification to the retiring soldiers under National Skill Development Corporation (NSDC) charter. Under this scheme, various Sector Skill Councils affiliated/ accredited by NSDC or its partners have been identified for National Occupational Standards (NOS) alignment of training and skill development. Various workshops have also been conducted by DGR to achieve this aim and implement the same as per the timelines given on each agenda, i.e. applicability of Common Norms as per Govt. of India Gazette Notification dated 8th August 2016 on skill development by Ministry of Skill Development & Entrepreneurship. The aim of implementation of this Mission is to ensure NOS alignment of DGR Training contents and providing them National Skill Qualification Framework (NSQF) desired standards, assessment and certification. DGR courses are now aligned to various NSQF levels as per the National Occupational Standards under Ministry of Skill Development & Entrepreneurship, overall aim being towards job creation and getting suitable employment for retiring/retired soldiers. Since August 2016, ESM undergo Skill Resettlement Training Courses at Central/State Government Institutes /institutes run by regulatory bodies/institutes certified by NSDC with minimum NSQF level 4. Besides that other Resettlement Training Courses i.e. Certificate/diploma courses are also imparted to the ESMs/widow/their dependents by the Govt. institutes or institutes controlled by govt body. A case has been taken up by this Ministry vide O.M. dated 4.12.2017 with Ministry of Skill Development & Entrepreneurship to take up the matter

		with DOP&T, Department of Public Enterprises and Department of Financial Services for amendment in the Recruitment Rules of different offices under Central/State Govt., PSUs, Banks and Financial institutions to ensure that Certificate awarded for resettlement courses (below six months) aligned to NSDC are recognized and given due weightage in recruitment of ESM in Central/State Govt./PSU/Bank jobs. With this recognition the number of ESM getting job will substantially increase. This will also facilitate them to avail the complete percentage of ESM reservation quota allotted by the Central Govt. The proper equation of a servicemen trade proficiency and due recognition thereof by all the Government agencies would go a long way in enabling to fill the unclaimed reserved vacancies for ESMs in the Central Government Jobs. Ministry of Skill Development & Entrepreneurship have constituted a sub-committee under the Chairmanship of AS & DG, NSDA to examine the matter and submit report. Based on the advice of MSDE, a case has been taken up by this Department with DOP&T, DPE, DFS & Railway Board, requesting them to issue necessary instructions to all offices under their administrative control to amend their Recruitment Rules to include NSQF compliant skill levels held by ex-servicemen at par with civil qualifications for employment in ex-servicemen reserved job vacancies. DGR has an MoU with CII since 2014 to facilitate better placement of ESM in corporate jobs. To strengthen the initiative preliminary discussions have also been held with FICCI to have a similar arrangement in place at the earliest. DGR has also requested CII and FICCI to provide an opportunity to DGR to address their associated Corporate Houses with an aim to apprise about the capabilities and employability of

		ESM. These talks have been delivered at few events already and the process will be continued. Further, a joint workshop between FICCI & DGR was conducted at Manekshaw Auditorium on 22.06.2018. The theme of the workshop was based on "projecting the skills and competencies of ESM to corporate sector". Important issues that concern the ESM who are looking for job opportunities in corporate sector were discussed in detail during an interactive panel discussion and various areas were identified which needs to be further worked upon so as to develop the right interface between ESM and the corporate sector. A draft MoU between DGR & FICCI has been signed on 27.01.2020. **(Accepted)** **Point 7.1(d)** The position has already been explained in Para (ii) of recommendation (a) above. **(Not accepted)** **Point 7.1(e)** No inputs were provided by Ministry of Water Resources, River Development and Ganga Rejuvenation. However, Ministry of Drinking Water and Sanitation has informed that Sanitation being a State subject, Swachh Bharat Mission (Gramin) is being implemented by the State Govts. GOI only provides technical and financial support to the States for implementation of the programme. Thus, State Govt. are actually engaging the resource persons for successful implementation of the Mission at ground level. Thus, on getting the list of such organizations of veterans, this Ministry will circulate the same list to the States for engaging such veterans as resource persons under Swachh Bharat Mission.

		In this regard, the recommendations of the Committee and the response of Ministry of Drinking Water and Sanitation have been forwarded to DGR, DIAV, DAV and DESA so that they can share the list of veterans volunteering for such services with Ministry of Drinking Water and Sanitation. **(Accepted)**
24.	**Para 7.5 The Committee recommended that:** (a) The scheme must revert back to the 5+5+4 system rather than the 10+4 system and with universal applicability to all three services. It must be appreciated that on release from service after 10 years, a person is in his/her 30s when it becomes extremely difficult to start a second career. (b) Since the organization feels that officers must serve for at least 10 years to be particularly beneficial to the organization, the Government can initiate a graded system of benefits after 5, 10 and 14 years- longer the person serves, better the benefits. (c) A Contributory Pension Scheme on the lines of the New Pension Scheme (applicable since 2004 to civil servants) be considered for all future SSC officers who serve for a minimum 10 years. In fact, the New Pension Scheme itself could be extended to the SSC scheme of the defence services by working out the modalities. (d) All bottlenecks of the pending package for SSC officers be immediately cleared by personal intervention of the political executive so as to attract and retain talent in reality. (e) Extension of ECHS be effectuated to all past and future SSCOs which could replace the existing outpatient medical facilities and reimbursement by Kendryia Sainik Board for serious diseases, already applicable to them (but illegally held back, as explained in **Para 2.3.1** of this Report). The political executive must again intervene here and ensure the grant of ECHS by overcoming bureaucratic and financial hurdles, which in fact, was already announced by the then Raksha Mantri (**Annexure-44).** (f) Officers who seek release from Short Service after completion of terms of engagement but while on extended terms are being denied "ex-serviceman" status which is being restricted only to those who are released exactly on the date of competition of terms. This denial results from a negative interpretation of existing provisions and all officers who have completed the terms of engagement must be granted "ex-serviceman" status as has been actually made available to them under the rules, whether they are released on the exact date of culmination of their Commission or they are released while on extended terms after the culmination of their initial terms.	**Accepted :** The recommendation under para 7.5 is partially related to D(WE/Res-I) in respect to grant of ECHS facilities to SSCo/ECOs. This recommendation has been implemented as the **SSCOs/ECOs** including World War II Veterans and Pre-matured retirees have been granted ECHS facilities vide DoESW Letter No. 17(11)/2018/WE/D(Res-I) dated 07.03.2019.
25.	**7.8. ISSUE RELATED TO OFFICER-CADETS/CADETS DISABLED IN TRAINING ACADEMIES:** **The Committee recommends that Cadets may be released proper disability pension at officer rates (without the MSP element) along with broad-banding, and the nomenclature of their pension be changed to disability pension rather than ex-gratia so that they can be termed as 'ex-servicemen' and enjoy all facilities admissible to pensioners. This would also remove the disparity between such Cadets vis-a-vis Recruits**	**Deferred.** **Presently, the issue is being examined in Department of Military Affairs.** The matter regarding grant of disability pension to Cadets boarded out from training has been examined in consultation with all stakeholders.

	of the 'Other Ranks' category and also similarly places civilian trainees. Even otherwise, we expect all concerned to be gracious in such issues and not indulge in surgical objections to hold back benefits. Such issues need to be tackled with a positive frame of mind rather than with an aim of fishing for negative connotations. Officers holding Provisional Short Service Commission during training are as it is entitled to full disability benefits at officer rates which should not be denied to them on hyper-technical pretexts. The offsetting of loss of years spent in the training academies as mentioned above may also be considered in consultation with the Ministry of Human Resource Development and the cadets must be supported through professional courses which would enable their resettlement in civil life.	In order to grant pensionary and other benefits to invalided out cadets, the following changes are required: (i) Training period of Cadets require to be included under their respective services act like Army Act/ Air Force Act/ Navy Act; (ii) During the period of training they required to be allowed pay & allowances instead of stipend. (iii) Commission is also to be granted on the date of joining into the training. **D(AG)** vide their ID note dated 30.10.2017 stated that the Gentlemen Cadets(GCs) joining the Indian Army as a Cadets are neither subject to Army Act nor included in the definition of Officer. They are governed by the Rules of the respective Academies. As regards "grant of Commission on the date of joining into the training", it has been informed that on successful completion of training at the Academy, GCs are granted Commission in the rank of Lieutenant(Lt) in the Army. Further, since training period at Training Academies (IMA or OTA) for different types of entries is different, granting Commission on the first day of joining Training Academy may create anomaly in seniority, pay, pension etc. **CGDA** has stated that in case of commissioned officer, the pension is granted taking into account qualifying service from date of commission only and period of training prior to commission is not treated as qualifying service. Since cadets are boarded out prior to commission, as such, they do not qualify for pension under existing policy. In case of cadet invalided out on medical grounds due to disability attributable to or aggravated by the conditions of Military Training, the provision of grant of ex-gratia awards has been introduced w.e.f 1.1.1986 vide MOD letter No. 1(5)/93/D(Pen/C) dated 16.4.1996. Vide Para 10.2.67 of **7th CPC** Report, the Commission Noted that the 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 Rs. 6300/- per month to Rs. 16200/- per month for 100 percent disability. This recommendation has been implemented through Govt. letter dated 4.9.2017. DESW has requested AG/PS-5 to take

		up the matter with concerned Administrative Division of MoD for amendment in Recruitment Rules of Cadets with regard to inclusion of Training period of Cadets under their respective service Acts and allowing Pay & Allowances instead of Stipend during the period of Training. Accordingly, the matter has been deferred to DMA(AG). DMA(AG) have recently informed that the issue is being examined by the Judge Advocate Generals (JAGs) of the three Services. As regards ECHS facility to cadets, ECHS subscription is deducted in case of Ex-servicemen only. Ex-servicemen status & ECHS facility is not available to cadet under existing policy. D(WE) mentioned that two mandatory conditions: (i) should be ESM; and (ii) Receipt of pension of any kind; are required for grant of ECHS membership.
26.	**7.10 ISSUES CONCERNING RETIRED MAJORS:** Those Majors who retired between 1996 and 2006 with more than 21 years of service have been granted the pension of Lt Col which has been refused to those who had retired with a similar length of service prior to 1996 and also the issue of rationalization of pensions based on the fact that there was an upward revision in the cadre after the implementation of the AV Singh Committee report in December 2004 which has affected officers of various ranks who had retired prior to 2004. **We would hence recommend that a considered decision may be taken on the issue by deliberating it threadbare after due consultation with all stakeholders.**	***Not Accepted :*** *Under 6th CPC, the rank of Lt. Col was initially placed in pay Band III and due to this there was not much gap in pay/pension between the rank of Major and Lt. Col. But, subsequently, the Government placed the Lt. Col and equivalent ranks in Navy & Air Force in pay band IV with effect from 01.01.2006. Consequently, the gap in pay as well as pension of the rank of Major & Lt. Col widened.* *6th CPC has prescribed a provision for minimum guaranteed pension/ family pension for all pre 2006 Armed Force pensioners/family pensioners as the revised pension in no case be lower than 50% of the minimum of the pay in the pay band plus grade pay* ***corresponding to the pre revised scale from which the pensioner/ deceased Armed Force Personnel had retired/ discharged/ died*** *including Military Service pay. Keeping in view this, Ministry of Defence Letter No. 1(13)/2009-D(Pen/Pol) dated 24.9.2012 was issued conveying that* ***post-1.1 .1996 but pre-l.l.2006 retired substantive Majors*** *and equivalent ranks in Navy & Air Force who have completed 21 years of commissioned service and were* ***drawing pay scale of Lieutenant Colonel or equivalent officers in 'Navy & Air Force at the time of their retirement*** *in terms of provisions contained in Para 5(a)(iii) and Para 5(a)(iv) of Special Army Instructions 2/S/1998 or corresponding instructions for Navy and Air Force shall be eligible for minimum guaranteed pension/family pension with reference to Pay band - 4 (i.e. Rs. 37400 - Rs. 67000) with Grade pay of Rs. 8,000/- and MSP of Rs. 6,000/-.*

		For pre-1996 retiree Major who have rendered more than 13 years of Commissioned Service prior to their retirement, but were not promoted to the rank of Lt. Col as at that point of time, has been examined earlier. D(GS-I) MoD vide letter dated 21.12.2004 liberalized the promotion scheme and thereby introduced the scheme of automatic promotion to the rank of Lt. Col. and equivalent ranks in Navy & Air Force on completion of 13 years of service. This provision is applicable from 16.12.2004. Those who had retired prior to the introduction of the scheme, were not entitled to claim the benefit as the scheme was introduced prospectively and had no retrospective application. Further, provision contained in para 5(a)(iii) and para 5(a)(iv) of SAI 2/S/1998 or corresponding instruction for Navy & Air Force, as a onetime measure, pay scale of Lt. Col was granted to substantive Major and equivalent ranks in Navy & Air Force on completion of 21 years of commissioned service, are also not applicable to them as they had retired prior to 01.01.1996. *They cannot be equated with Lt. Col and substantive major of post 1.1.1996 who were granted the pay scale of Lt. Col and were granted scale of pay in pay band IV after 6th CPC.* *Consequently, the gap between pension of rank of Major and equivalent ranks in Navy & Air Force vis-à-vis the pension of Lt. Col and equivalent ranks in Navy & Air Force widened. The wide gap in pay/pension between Major and Lt. Col had already been reduced after the issue of MOD letter dated 3rd September 2015.* *The proposal to extend the benefits of the scale of Lt. Col. to Pre-1996 Majors was not agreed to.* Further, a Government order dated 21.11.1997 granted the benefit of pay scale of Lt. Col or equivalent to those who became substantive Majors or equivalent before 1st January 1996, upon completion of 21 years of Commissioned service. In case of Suchet Singh Yadav Vs Union of India, the Government order dated 21.11.1997 was challenged in the Hon'ble Supreme Court by Commissioned Officers who retired prior to 1st January 1996, seeking a grant of next higher scale and benefits in accordance with the Government Order dated 21.11.1997. **The Hon'ble Supreme Court rejected the contention and held that the applicants were not entitled to the grant of benefit of higher pay scale under the Government order dated 21.11.1997 and those who had retired prior to 1st January 1996 could not claim any benefit**. Thus, the law has been settled by Hon'ble Supreme Court.