

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

7.

OA 1009/2015 with MA 969/2015

Maj Indra Chand (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. V S Kadian, Advocate
For Respondents : Ms. Barkha Babbar, Advocate
Maj. A.R. Subramaniam, OIC, Legal cell

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HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
17.01.2024

On behalf of the respondents, pursuant to directions dated 09.01.2024, reliance is sought to be placed on MoD letter no.68699/CS/TA-3(COND)/482-B/93/D(GS-VI) dated 19.04.1993 and MoD letter no. 4684/DIR(PEN)/2001 dated 14.08.2001 to submit to the effect that qua condonation of shortfall in service relation to TA Commissioned Officers, there is no provision for condonation of shortfall of service and thus it is submitted on behalf of the respondents that the applicant is not entitled to the condonation of shortfall in service.

2. On behalf of the applicant, reliance is sought to be placed on Chapter-1 of Regulation-1 of the Pension Regulations for the Army, 1961 which reads to the effect:-

“1. Unless otherwise provided, the regulations in this part shall apply to all individuals whose pensions are regulated under Part I of these Regulations.”

to submit to the effect that there is no distinction between PBORs and Officers.

3. Inter alia, it is submitted on behalf of the respondents that in view of the period that the applicant served with the Territorial Army from 14.03.2000 to 31.01.2010, the Pension Regulations for the Army, 2008(Part-I) would be applicable. In relation thereof on behalf of the applicant, reliance is sought to be placed on the Pension Regulations for the Army, 2008 (Part-I) with specific reliance on Para-18(a) thereof which reads to the effect:-

“18. (a) In calculating the length of qualifying service, fraction of a year equal to three months and above but less than 6 months shall be treated as a completed one half year and reckoned as qualifying service. The period of nine months and above would, therefore, be two half years. This shall however not be applicable for completing minimum qualifying service for pensionary awards. ”

4. The attention of the respondents is drawn by the Court to Para-2(a) of Chapter-I of Section-1 of the General Pension Regulations for the Army (Part-I),2008 which reads to the effect:-

“2. (a) Unless otherwise provided, these Regulations shall apply to the (i) Permanent Commissioned Officer of the Army, including Military Nursing Service Officer, Territorial Army Officer, Short Service Commissioned Officer and Emergency Commissioned Officer (ii)Personnel Below Officer Rank (including those granted honorary commission while on the effective list) of regular Army Defence Security Corps and Territorial Army. ”

qua which reliance is placed on behalf of the respondents on Para-28 of the said Regulations which stipulates to the effect:-

“28. The Regulations in this Chapter shall apply to Regular Commissioned Officer and Officer of Military Nursing Service.”,

In relation to which reliance was further placed on behalf of the respondents on letter no. 84884/TA-42442/12/LC/TA-4 dated 22.02.2017 and specific averments made therein in Paras- 8,9 and 10 and with further reliance on Para-186 of the Pension Regulations for the Army, 2008(Part-I).

Heard.

Reserved.

**(JUSTICE ANU MALHOTRA)
MEMBER (J)**

**(REAR ADMIRAL DHIREN VIG)
MEMBER (A)**

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