

COURT NO. 3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

10.

OA 1212/2025 with MA 1774/2025

Ex Sgt Dinesh Kumar Mishra	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant : Mr. Ajit Kakkar, Advocate

For Respondents : Ms. Barkha Babbar, Advocate

CORAM

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER
29.04.2025

MA 1774/2025

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 3450 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of Union of India and Ors. Vs Tarsem Singh 2009(1) SLJ 371 and in Ex Sep Chain Singh Vs Union of India and Ors. C.A.022965/2017 filed vide Diary No. 30073/2017 and the reasons mentioned therein, the MA 1774/2025 is allowed and the delay of 3450 days in filing the OA 1212/2025 is thus condoned. The MA is disposed of accordingly.

OA 1212/2025

2. The applicant, by way of present OA seeks the following reliefs:

- “a. To set aside the arbitral clause/provision in the Impugned Circular dated 04.01.2023 wherein the applicant is disentitled under the OROP scheme.
- b. To cover the Applicant under the OROP Scheme.
- c. To grant consequential benefits under OROP-1, OROP-2 and OROP-3.
- d. To pass any other appropriate order or relief which this Hon’ble Tribunal deems fit and proper anytime during the proceedings of this case.”

3. Notice of the OA was issued to the respondents which is accepted on their behalf.

4. The applicant submits that he was enrolled in the **Indian Air Force** on **10.07.1995** and after serving the Indian Air Force for a period of 20 years was discharged from service on **06.04.2015** on compassionate grounds under the clause “at his own request”. The applicant submits that the Government of India, Ministry of Defence, Department of Ex-Serviceman Welfare had announced One Rank One Pension (OROP) Scheme by way of Policy Letter No.12(1)/2014/D(Pen/Pol)-Part-II dated 07.11.2015 and as per Para 4 of the said Policy letter, the personnel who opted to

get discharged henceforth at their own request under Rule 13(3) 1(i)(b), 13(3) 1(iv) or Rule 16B of the Army Rules, 1954 or equivalent Navy or Air Force Rules, would not be entitled to the benefits of OROP but it was to operate prospectively. However, the Govt of India, MoD, Department of Ex-Serviceman Welfare vide their letter No.1(1)/2019/D(Pen/Policy) Vol.II dated 20.01.2023 issued the policy granting the benefits of OROP-II and thus the applicant comes within the purview of this policy and hence is entitled to the benefits of OROP Scheme, but he has been denied the benefit only on the ground that he was discharged under the clause “at his own request”.

5. The respondents fairly do not dispute the settled proposition of law put forth on behalf of the applicant in view of the verdicts relied upon on his behalf.

6. The matter in issue is no more *res integra* in view of the orders of this Tribunal in OA 313/2022 *Cdr Gaurav Mehra Vs. Union of India and Ors.* decided on 31.01.2025 whereby vide Paras 83 and 84 thereof it has been observed as under:-

“83.Pensioners form a common category as indicated in detail hereinabove. PMR personnel who qualify

for pension are also included in this general category. The pension regulations and rules applicable to PMR personnel who qualify for pension are similar to that of a regular pensioner retiring on superannuation or on conclusion of his terms of appointment. However, now by applying the policy dated 07.11.2015 with a stipulation henceforth, the prospective application would mean that a right created to PMR pensioner, prior to the issue of impugned policy is taken away in the matter of grant of benefit of OROP. This will result in, a vested right available to a PMR personnel to receive pension at par with a regular pensioner, being taken away in the course of implementation of the OROP scheme as per impugned policy. Apart from creating a differentiation in a homogeneous class, taking away of this vested right available to a PMR personnel, violates mandate of the law laid down by the Hon'ble Supreme Court in various cases i.e. Ex-Major N.C. Singhal vs. Director General Armed Forces Medical Services (1972) 4 SCC 765, Ex. Capt. K.C. Arora and Another Vs. State of Haryana and Others (1984) 3 SCC 281 and this also makes the action of the respondents unsustainable in law.

84. Even if for the sake of argument it is taken note of that there were some difference between the aforesaid categories, but the personnel who opted for PMR forming a homogenous class; and once it is found that every person in the Army, Navy and the Air Force who seeks PMR forms a homogenous category in the matter of granting benefit of OROP, for such personnel no policy can be formulated

which creates differentiation in this homogeneous class based on the date and time of their seeking PMR. The policy in question impugned before us infact bifurcates the PMR personnel into three categories; viz pre 01.07.2014 personnel, those personnel who took PMR between 01.07.2014 and 06.11.2015 and personnel who took PMR on or after 07.11.2015. Merely based on the dates as indicated hereinabove, differentiating in the same category of PMR personnel without any just cause or reason and without establishing any nexus as to for what purpose it had been done, we have no hesitation in holding that this amounts to violating the rights available to the PMR personnel under Articles 14 and 16 of the Constitution as well as hit by the principles of law laid down by the Supreme Court in the matter of fixing the cut off date and creating differentiation in a homogeneous class in terms of the judgment of D.S. Nakara (supra) and the law consistently laid down thereafter and, therefore, we hold that the provisions contained in para 4 of the policy letter dated 07.11.2015 is discriminatory in nature, violates Article 14 of the Constitution and, therefore, is unsustainable in law and cannot be implemented and we strike it down and direct that in the matter of grant of OROP benefit to PMR personnel, they be treated uniformly and the benefit of the scheme of OROP be granted to them without any discrimination in the matter of extending the benefit to certain persons only and excluding

others like the applicants on the basis of fixing cut off dates as indicated in this order. The OAs are allowed and disposed of without any order as to costs.”

7. Furthermore, vide the verdict of the Hon’ble Supreme Court in Lt. Col. Suprita Chandel Vs. Union of India and ors [2024 SCC Online SC 3664] whereby vide Paras 14 and 15 it has been directed to the effect:-

“14. It is a well settled principle of law that where a citizen is aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. [See Amrit Lal Berry vs. Collector of Central Excise, New Delhi and Others, (1975) 4 SCC 714]

15. In K.I. Shephard and Others vs. Union of India and Others, (1987) 4 SCC 431, this Court while reinforcing the above principle held as under:-

“19. The writ petitions and the appeals must succeed. We set aside the impugned judgments of the Single Judge and Division Bench of the Kerala High Court and direct that each of the three transferee banks should take over the excluded employees on the same terms and conditions of employment under the respective banking companies prior to amalgamation. The employees would be entitled to the benefit of continuity of service for all purposes including salary and perks throughout the period. We

leave it open to the transferee banks to take such action as they consider proper against these employees in accordance with law. Some of the excluded employees have not come to court. There is no justification to penalise them for not having litigated. They too shall be entitled to the same benefits as the petitioners.”

(Emphasis Supplied)”

8. It is thus, apparent that the applicant's case being on identical footing as per guidelines laid down vide order dated 31.01.2025 of the Armed Forces Tribunal (PB), New Delhi in OA 313/2022 Cdr Gaurav Mehra Vs. Union of India and Ors., the respondents are directed to grant the benefits of OROP to the applicant subject to verification of his date of retirement and of the nature of the retirement being due to premature voluntary retirement in terms of the directions issued in OA 313/2022.

9. The OA is disposed of accordingly.

[JUSTICE NANDITA DUBEY]
MEMBER (J)

[RASIKA CHAUBE]
MEMBER (A)

vks