

**SPECIAL BENCH
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 4134/2025

Lt Col Ashish Arya **Applicant**
VERSUS
Union of India and Ors. **Respondents**

For Applicant : Mr. S.S. Pandey, Advocate
For Respondents : Mr. Jatin Teotia, Advocate
Lt Col Deepak Ranvaha, AMS (Legal)

CORAM

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

O R D E R

The applicant vide the present OA makes the following prayers:-

“8. RELIEFS SOUGHT:

In view of the facts mentioned in Para 4 and 5 above, the Applicant prays that this Hon'ble Tribunal may be graciously pleased to allow the present application by passing following orders/directions:-

(a) Call for the records/policy/instruction based on which the Respondents have either not taken a decision to accede to the request of the Applicant for withdrawal /cancellation of the order

dated 13.06.2025 and 09.10.2025 before the effective date of his retirement on 03.01.2026 or has rejected the same and thereafter quash/set aside all such orders/instructions being contrary to the established legal principle.

(b) Direct the Respondents to allow the Applicant to serve in the Army with all consequential benefits consequent upon setting aside the order dated 13.06.2025 and 09.10.2025.

(c) Issue any other/direction as this Hon'ble Tribunal may deem fit in the facts of the case."

2. Along with the same is a prayer seeking grant of interim relief to the effect:-

"Keeping in view, the extreme urgency in the matter and to prevent irreparable damage to the Applicant due to such grossly illegal actions of the Respondents, the Applicant is seeking interim relief from this Hon'ble Tribunal to the effect that till final disposal of the present OA. the operation of the order dated 13.06.2025 and 09.10.2025 shall remain stayed and the Applicant shall not be retired from service in terms of such order w.e.f 03.01.2026 and maintaining the status quo till the final outcome of this Application."

3. Notice of the said prayers were issued to the respondents.

FACTS AS PER RECORD

4. The applicant submits that he was granted Permanent Commission in the Corps of Engineers of the Indian Army on 08.12.2012 and was promoted from time to time and on 29.12.2025 at the time of filing of the present OA held the rank of Lt Col.

5. The applicant submits he got married on 25.11.2018 to Ms. Arunima Chandel, a certified Public Accountant of a US based Accounting Firm based at Gurugram from 2013. As the applicant's wife wanted to apply for work visa / permanent residency in the US, the applicant applied for premature retirement / resignation in the year 2019, even though he had not completed 10 years of service but his request was not accepted by the authorities.

6. The applicant submits that he again applied for PMR on 30.04.2024 based on personal grounds and separation from family and that his request for premature retirement was acceded to by the respondents in terms of order dated 13.06.2025 no. 33001/6639/Engrs/MSPR to proceed on PMR not later than 10.09.2025.

7. The applicant submits that he was permitted to undertake the six months certificate resettlement course at the Faculty of Management Studies, New Delhi in terms of order dated 03.07.2025 which course was to start from 07.07.2025 and was to complete on 19.12.2025. The applicant submits that in terms of order dated 09.10.2025 the date of PMR was extended to 03.01.2026.

8. The applicant submitted that he and his wife have since been blessed with a baby boy on 13.11.2025. It is further submitted by the applicant that in view of the change of rules, the applicant's wife's request for work Visa could not be processed and as she had given birth to her child, it had become impossible for her to even otherwise move out of the country, thereby disturbing the entire plan of the applicant and thus the applicant in terms of the

Policy No. 04588/MS Policy on WITHDRAWAL OF PREMATURE RETIREMENT APPLICATION dated 30.04.2010 submitted his application on 04.12.2025 requesting the respondent no 3, i.e. *The Military Secretary Through Col MS-7, MS Branch IHQ of MOD (Army), DHQ PO, New Delhi-110011* to withdraw his said request for PMR.

The applicant submits that he also submitted therein that he be withdrawn from the resettlement course at the Faculty of Management Studies, New Delhi which he was then undergoing from 07.07.2025 to 19.12.2025 and offered to pay the entire cost.

9. The applicant submits that the respondent no 3 vide letter no. 33002/731/Int/MSPR dated 22.12.2025 sought the recommendations of the authority higher than the authority who had endorsed the recommendations in terms of MS Policy No. 04588 dated 27.02.2009. When the applicant filed the present OA on 29.12.2025, which OA is supported with an affidavit, the application filed by the applicant dated 04.12.2025 seeking withdrawal of the request for premature retirement was pending consideration. The applicant thus submitted through his present OA that in as much as the date of PMR was extended to 03.01.2026, and as he had sought the withdrawal of his PMR application well before the said extended date of release on PMR i.e. 03.01.2026 and as he was ready to pay the entire cost of the course that he had undergone, he ought not to be forced to proceed on PMR.

10. The matter was listed during the December 2025 vacation for an urgent hearing. The matter having been filed on 29.12.2025, vide diary no 11932/2025 was directed for urgent listing for 31.12.2025, when notice of the OA and the interim prayer was issued to the respondents vide the proceedings of the date 31.12.2025. In as much as, in reply to a specific Court query, Lt Col Deepak Ranvaha, AMS (Legal) on behalf of the respondents submitted that the application dated 04.12.2025 of the applicant seeking withdrawal of his PMR request had been rejected, the respondents were directed to produce the relevant record in relation thereto at 2pm on 31.12.2025, which records were so produced.

11. The records produced by the respondents on 31.12.2025, File no 33001 / 6639 / Engrs / MSPR in relation to the applicant's request for PMR have been perused by the Bench. The said records indicate that whilst the CG (Controlling Group) recommended cancellation of the PMR order in relation to the applicant, the aspects of withdrawal application were considered to be untenable with the applicant having completed the DGR

course (at the expense of one vacancy & Govt Exchequer) with the PMR order having been issued on 09.10.2025 with SoS date being not later than 03.01.2026 (AN). The Col MS 7 thus vide note dated 26.12.2025 recommended that the withdrawal of PMR application be rejected. The same was endorsed by the Addl MS (B) on 29.12.2025 and the said recommendation for rejection of the withdrawal application was approved by the Military Secretary on 30.12.2025.

12. The respondents also produced letter No. 19(11)2001-D(MS) dated 14.08.2001 of the Government of India Ministry of Defence in relation to the **Delegation of Administrative Powers to Service Hqrs**, which as per the **Annexure** thereto gives the delegation of administrative powers to the Army Headquarters which reads as under:-

“

S. No.	Subject	Approving Authority	Issuing Authority
1	<i>Premature retirement of officers upto the rank of Brig on all grounds</i>	<i>Military Secretary</i>	<i>AMS/DAMS</i>
2	<i>Deputation of officers upto the rank of Brig to Central/State Government Orgns/PSUs within the sanctioned strength</i>	<i>-do-</i>	<i>-do-</i>
3	<i>Permanent absorption of officers upto the rank of</i>	<i>-do-</i>	<i>-do-</i>

	<i>Brig to Central / State Government orgns/ PSUs</i>		
4	<i>Grant of all types of commission including hony Commission to PBOR</i>	-do-	-do-
5	<i>Grant of permission to the officers upto rank of Brig to seek civil / commercial employment</i>	-do-	-do-

”

The same indicates thus that in relation to requests for premature retirement of officers up to the rank of Brigadier on all grounds, the administrative powers of the Approving Authority have been delegated to the Military Secretary.

13. In the said circumstances, it was not considered appropriate to grant any interim relief as prayed by the applicant seeking that the operation of the orders dated 13.06.2025 and 09.10.2025 be stayed and that the applicant be not retired from service w.e.f. 03.01.2026 and the prayer seeking *status quo* to be maintained till the final outcome of the OA was also not granted. This is so, as on a consideration of the record submitted by the respondents it was considered appropriate vide order dated 31.12.2025 to dispose of the OA on merits on a detailed analysis thereof, and the matter was thus reserved for orders.

CONTENTIONS RAISED

14. The applicant vide the present OA and through submissions made on his behalf by his learned counsel placed reliance on the verdict of the Hon'ble Supreme Court in ***UOI & Ors vs Wing Cdr T Parthasarthy*** 2001 (1) SSC page 158 and on the following cases mentioned in para E of the OA, i.e.:-

- ***Balram Gupta Vs. Union of India & Anr. [1987 (Supp) SCC 228];***
- ***J N Srivastava Vs. Union of India & Anr [1998 (9) SCC 559];***
- ***Shambhu Murari Sinha Cs. Project and Development India & Anr. [JT 2000 (6) SC 358] and***
- ***State of West Bengal & Ors Vs. Sushil Kumar Sharma [JT 2000 (6) SC 361];***

to submit to the effect that in as much as the applicant's request for premature retirement had yet to be accepted, he could seek the withdrawal of his application for PMR as his application for withdrawal of PMR was yet to be considered and as the date of his final premature retirement was 03.01.2026, the applicant could seek withdrawal of his application for premature retirement which he had so done on 04.12.2025.

15. During the course of submissions made on behalf of the applicant reliance was also placed on the order dated 30.10.2017 of this Tribunal in **Cdr Raman Rajagopal vs UOI & Ors** in OA 453/2016.

16. During the course of the hearing on behalf of the respondents, reliance was placed on the orders of this Tribunal dated 31.08.2023 in OA 1363/2020 in **Lt. Col. Jitendra Singh (Retd) vs Union of India and others** and the order dated 09.02.2024 of this Tribunal in OA 2060/2017 in the case of **Cdr Vishal Bhargava vs Union of India and others.**

17. The attention of the applicant was also drawn to the verdict of the Hon'ble Supreme Court in **Union of India Through its Secretary, Ministry of Defence DHQPO, New Delhi & Others versus Wg Cdr Subrata Das** and three other connected matters adjudicated vide judgment dated 29.01.2019 of the Hon'ble Supreme Court. An attempt was made by the learned counsel for the applicant to distinguish the facts of the instant case from that in the case of **Lt. Col. Jitendra Singh (Retd)** (supra) to submit to

the effect that in that case the applicant thereof was already in receipt of service pension, and that the applicant herein had not completed his term of pensionable service and would not complete the same till 03.01.2026 yet.

18. The applicant relied on the policy no. 04588/MS Policy i.e. the **POLICY ON WITHDRAWAL OF PREMATURE RETIREMENT APPLICATION** dated 30.04.2010 which reads as under:-

**POLICY ON WITHDRAWAL OF
PREMATURE RETIREMENT APPLICATION**

1. *Reference:-*

- (a) AR 16-B(2) and AR 16-C(2)
- (b) RA Para 105(h)
- (c) MS Policy letter No 04588/ MS Policy dt 25 Feb 2009.

2. *There has been a steady increase in requests for withdrawals of premature retirement (PR) applications with uncorroborated or unsubstantiated reasons. Officers seek withdrawal of PR application whilst these are being processed, or once the PR orders are issued.*

3. *Withdrawal of PR application is permitted, only in exceptional circumstances when the conditions on which PR has been applied for have changed. PR applications can be withdrawn at two stages in the entire process. They are:-*

- (a) *PR application while in process.*

(b) After PR orders issued.

4. **PR Application While in Process.**

PR application can be withdrawn while the application is in process, by submitting a personal application duly recommended by IO, RO and SRO.

5. **After PR Orders Issued.** A similar application as above can be given to seek withdrawal of PR orders through proper channel. However, attention of the officers is drawn to AR 16-B(2), AR 16-C(2) and DSR para 105-H to be read in conjunction with Policy Letter on PR issued vide 04588/ MS Policy dated 25 Feb 2009 (Para 29).

6. The following guidelines to be adhered to before applying for withdrawal of PR application and processing the same at intermediate HQs:-

(a) The officer seeking withdrawal, must clearly state the reasons for change of circumstances necessitating the request for the withdrawal. The reasons should address all issues on which PR was sought.

(b) The officer will forward an undertaking duly countersigned by his IO to the effect that he shall be debarred from applying for PR for a period of four years.

(c) The officer seeking withdrawal must clearly establish that issues which compelled him to ask for PR are no longer valid and they have been adequately addressed.

(d) All the Cdr's in chain (IO, RO & SRO) must examine the reasons put forth by the officer for the withdrawal and satisfy themselves that conditions for which the PR was asked, have changed since the application, before recommending the case.

7. *The request for withdrawal of PR application, will be processed at the MS Branch for sanction by the competent authority, keeping in mind organizational interest.”,*

to submit that all parameters thereof stand fulfilled, in as much as in view of the changed circumstances, the IO, RO and SRO had all recommended the acceptance of his application for withdrawal of premature retirement.

19. It was further submitted on behalf of the applicant that the verdict of the Hon’ble Supreme Court in **Wg Cdr Subrata Das** (supra) and the three connected cases related to a personnel of the Indian Air Force and not to personnel of the Indian Army and related to the existence of a Human Resource Policy of the Indian Air Force and that in terms of para 18 of the Human Resource Policy under consideration in **Wg Cdr Subrata Das** there was no unilateral right to withdraw from a request for Premature Separation from Service (PSS) which reads to the effect:-

“18. Withdrawal - A request for withdrawal of approved PSS application would be permitted only as an exception under extreme compassionate grounds (except in case the officer has undergone a Pre Release Course, in which he / she would not be permitted to withdraw). The

officer would be debarred from submitting a fresh application for one year from his proposed date of PSS.”

ANALYSIS

20. We consider it essential to observe that the policy on withdrawal of Premature Retirement Application No. 04588 / MS Policy dated 30.04.2010 as issued by the Military Secretary's Branch IHQ of MoD (Army) already reproduced hereinabove in para 18 vide paragraph 7 thereof states as under:-

“7. The request for withdrawal of PR application, will be processed at the MS Branch for sanction by the competent authority, keeping in mind organizational interest.”

It is apparent, therefrom that the request for withdrawal of the premature retirement application is to be processed at the MS Branch for sanction by the competent authority, keeping in mind the organizational interest of the Indian Army.

21. The records produced by the respondents qua the application of the applicant dated 04.12.2025 indicate a detailed consideration of the changed circumstances of the

applicant and also indicate that despite the recommendation of the IO, RO dated 09.12.2025 and SRO dated 15.12.2025 forwarding the request of the applicant for cancellation of premature release from service, the approving authority i.e. Military Secretary administratively empowered for consideration of this request has not approved the same and has not acceded thereto.

22. The detailed reasons for the same as found on the records of File no. 33001 / 6639 / Engrs / MSPR "PMR: IC-77688" qua the applicant herein as perused by us and reproduced herein for transparency are as under:-

"WITHDRAWAL OF PMR REQUEST
IC77688 LT COL ASHISH ARYA, ENGRS
33

1. *Ref notes ante.*
2. *The offr has highlighted change in circumstances which have led him to apply for cancellation of PMR. The same are given at Para 7, Note 32.*
3. *There is an acute defi of NYC Offrs in the cadre in corps of Engrs and cancellation of offr's PMR is recom from CG perspective.*
4. *For consideration pl.*

*Sd/-
24 Dec 25*

34

Col MS 7

INTEGRATED HQ OF MOD (ARMY)
MILITARY SECRETARY'S BRANCH MS-7C)

File No : 33001/6639/ENGRS/MSPR Sheet No :	Ref				
WITHDRAWAL OF PMR REQUEST: IC-77688 LT COL ASHISH ARYA, ENGRS					
<u>35</u>					
<p>1. Ref Encl 31A.</p> <p>2. The brief of the case is not being elaborated again for the sake of brevity.</p> <p>3. MS-12 View. MS-12 has recommended cancellation of offr's PMR, citing defi in NYC offrs in Corps of Engrs.</p> <p>4. Fwg aspects are put forth for further consideration :-</p> <p>4.1 Policy. The policy has been covered in detail at Para 8 of Note 32 ante.</p> <p>4.2 Changed Circumstances. The comparison of initial reasons for PMR & changed circumstances necessitating withdrawal of PMR are tabulated below :-</p>					
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; padding: 5px;">Initial Reasons for PMR</th> <th style="text-align: center; padding: 5px;">Changed Circumstances cited in PMR Withdrawal Appln</th> </tr> </thead> <tbody> <tr> <td style="padding: 10px;"> <ul style="list-style-type: none"> To save his marital life plagued by continuous separation as his wife was working at Gurugram and often undertook work related visits to USA. To look after his parents suffering from Hypertension and Depression. </td> <td style="padding: 10px;"> <ul style="list-style-type: none"> Due to recent policy changes and restrictions imposed by the current USA administration, his wife is presently unable to proceed to USA for the work. Furthermore, he had recently been blessed with a child which has necessitated his wife to remain in India to look after the child. Offr has not commented on health condition of his parents. </td></tr> </tbody> </table>		Initial Reasons for PMR	Changed Circumstances cited in PMR Withdrawal Appln	<ul style="list-style-type: none"> To save his marital life plagued by continuous separation as his wife was working at Gurugram and often undertook work related visits to USA. To look after his parents suffering from Hypertension and Depression. 	<ul style="list-style-type: none"> Due to recent policy changes and restrictions imposed by the current USA administration, his wife is presently unable to proceed to USA for the work. Furthermore, he had recently been blessed with a child which has necessitated his wife to remain in India to look after the child. Offr has not commented on health condition of his parents.
Initial Reasons for PMR	Changed Circumstances cited in PMR Withdrawal Appln				
<ul style="list-style-type: none"> To save his marital life plagued by continuous separation as his wife was working at Gurugram and often undertook work related visits to USA. To look after his parents suffering from Hypertension and Depression. 	<ul style="list-style-type: none"> Due to recent policy changes and restrictions imposed by the current USA administration, his wife is presently unable to proceed to USA for the work. Furthermore, he had recently been blessed with a child which has necessitated his wife to remain in India to look after the child. Offr has not commented on health condition of his parents. 				
<p>4.3 DGR Course. On request of the offr, he was nominated for the DGR Course and has already completed the DGR Course in General Management Programme for Defence officers at FMS, New Delhi wef 07 Jul 2025 to 19 Dec 2025. Final PMR order has been issued on 09 Oct 2025 with SOS date being Not Later Than 03 Jan 2026 (AN).</p> <p>4.4. Tenability of Withdrawal application. The withdrawal application as submitted by the offr is untenable due to the following reasons:-</p> <p>4.4.1 Application for withdrawal has been recd on 18 Dec 2025, which is within 30 days of his date of PMR i.e. 03 Jan 2026 (ref para 8.1 of note 32 ante)</p> <p>4.4.2 Recom of auth higher than initial endorsing auth has not been enclosed by the offr (ref para 8.2 of note 32 ante)</p>					
Encl 31 A Encl-25A Encl-30A					

5. Recommendation. While CG has recom cancellation of PMR order in r/o IC-77688 Lt Col Ashish Arya, considering the aspects of withdrawal appln being untenable, the offr having already completed the DGR course (at the expense of one vac & govt exchequer) and PMR order having been issued on 09 Oct 2025 with SoS date being Not Later Than 03 Jan 2026(AN), it is recom that his withdrawal application be rejected.

6. Submitted for consideration pl.

(sd/-)
(Rahul Vatsyayan)
Col
Col MS-7
26 Dec 25

Brig MS (B)

Addl MS (B)

- 1. Recommendation at Para 5 of Note 35 is endorsed.**
- 2. For consideration and approval pl.”**

(sd/-)
29/12

MS Branch
30/12”

Thus, the request of the applicant for withdrawal of his PMR application has not been accepted by the Respondents as the applicant had completed the DGR course at the expense of one vacancy and government exchequer and the PMR order had been issued on

09.10.2025 with an SoS date of being not later than 03.01.2026.

23. It is essential to observe that merely, because the applicant submits that he is willing to make the payment of the expenses of the DGR course that he underwent i.e. DGR course on General Management Programme for Defence Officers which was held from 07.07.2025 to 19.12.2025 at FMS New Delhi, the same is no ground *per se* for acceptance of his application for withdrawal of his application for PMR for the same does not in any manner derive from the non acceptance of the application for withdrawal of PMR by the applicant. The factum that one vacancy for the DGR course was utilized at the cost of another candidate who could have undergone the said course cannot be ignored.

24. Significantly, it cannot be overlooked that the applicant had applied for PMR initially when he had a total service of 11 years and 8 months on the grounds:-

<i>Initial Reasons for PMR</i>
<ul style="list-style-type: none"> • To save his marital life plagued by continuous separation as his wife was working at Gurugram and often undertook work related visits to USA • To look after his parents suffering from Hypertension and Depression.

which in the year 2019 was rejected by the Competent Authority. It is essential to observe in the event of acceptance of that application too, even then the applicant would not have been entitled to pensionary benefits.

25. The applicant thereafter admittedly once again requested for PMR on 30.04.2024 qua which the Advisory Board Proceedings dated 13.08.2024 are to the effect:-

“INTEGRATED HQ OF MOD (ARMY)
MILITARY SECRETARY’S BRANCH
(MS-7C)
ADVISORY BOARD PROCEEDINGS: 13 AUG 2024

1. *Gist of PMR Advisory Board proceedings, duly approved by competent authority, is given in succeeding paras for follow up actions at the CG level, as applicable:-*

2. *Following are the directions of Advisory Board-*

<i>Ser No.</i>	<i>IC No. Rank & Name</i>	<i>Arm</i>	<i>Outcome/dirns</i>
(a)	IC-77688 Maj Ashish Arya	Engrs	CG brought out that the officer's spouse is working at Gurugram. Her job involves frequent travel to

		<p>US and sometimes elongated stay there. Due to her job, the officer cannot co-habit with his spouse which has strained their marital life. The officer is presently tenanting appointment of GE at Vizag. In case officer's request for PMR is accepted then it is recommended that the officer relinquishes his present appointment.</p> <p>Considering the compassion involved and requirements of the officer, the Advisory Board has recommended that the PMR of the officer should be accepted in principle. The officer should be posted out of the present appointment immediately and be allowed to proceed on PMR on completion of six months tenure at new location.</p>
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3. In view of foregoing, you are requested to confirm that the officer has been posted out. The date of joining at the new station in r/o the officer may please also be intimated for necessary action.

(Sd/-)
 (Pankaj Bharati)
 Dy Dir
 MS-7C"

26. Pursuant thereto vide posting order No. A/55152/PO-206/MS-12A dated 29.08.2024 the applicant's posting was as under:-

	Particulars of offrs (/Pers No, Rk, Name)/ Present Appt and Unit / Arm	New Appt / Unit & particular of relief	Reporting dt	Remarks
(a)	IC77688 Maj Ashish Arya, Engrs, GE,	102 Engr Regt	Mov on Relief	

	GE (P) Navy Vizag		
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27. The applicant thereafter was taken on the strength of 102 Engr Regt, in view of his reporting there as per letter no. 1029/94/A dated 10.12.2024. Thereafter, the applicant's application for resettlement training course was approved and vide letter No. 33001/6639/Engrs/MSPR dated 14.07.2025 it was stated to the effect:-

"CANCELLATION: PMR ORDER IN R/O IC-77688 MAJ ASHISH ARYA, ENGRS

1. Further to this HQ letter No. 33001/6639/Engrs/MSPR dated 13 Jun 2025.

2. On request of IC-77688 Maj Ashish Arya, Engrs and subsequent approval by competent authority, the officer has been nominated for the DGR Course Ser No. 13-07-2025 on 'General Management Programme for Defence Officers' scheduled to be held from 07 Jul 2025 to 19 Dec 2025 at FMS New Delhi.

3. Keeping in view the aforesaid course, PMR order issued vide this HQ letter No. 33001/6639/Engrs/MSPR dated 13 Jun 2025 is hereby cancelled. A fresh PMR order will be issued in due course."

Thus, it was only to enable the applicant to undergo the DGR course from 07.07.2025 to 19.12.2025 that

his date of PMR which was to be not later than 10.09.2025 as per letter dated 13.06.2025 was extended to 03.01.2026 (AN) vide letter No. 33001/6639/Engrs/MSPR dated 09.10.2025.

28. The facts of the instant case thus are not in *pari materia* with the facts of the cases relied upon on behalf of the applicant specifically of the case **in Wing Cdr T Parthasarthy (supra) in which the appropriate authority had accepted the request of the Armed Force Personnel therein for premature retirement a day after he had withdrawn his request for premature retirement.**

29. Likewise, the reliance that has been placed on behalf of the applicant on the order dated 30.10.2017 in OA 453/2016 in **Cdr Raman Rajagopal (supra)** also is equally misplaced in as much as in the said case, that applicant had submitted his original application for premature retirement on 21.04.2015 which had been approved on 21.03.2016 and was to be effected from 30.04.2016 and in the interim that applicant had been

promoted to the rank of Capt (TS) and had been given the benefit of age of that service with effect from 06.08.2016, **with it having been specifically observed in the said order to the effect that if the applicant therein had agitated for withdrawal of his premature retirement post approval of the Competent Authority, the circumstances of that case and indeed the law would have been different.** In the instant case the Competent Authority had accorded its approval for the grant of premature retirement to the applicant on 13.06.2025 permitting the applicant to proceed on premature retirement not later than 10.09.2025 which date was extended to 03.01.2026 vide letter dated 09.10.2025 only because the applicant had to undergo the DGR course from 07.07.2025 to 19.12.2025. Thus the facts of the instant case are not in *pari materia* with the facts of the case in **Wing Cdr T Parthasarthy** (supra) nor with the facts of the case in **Cdr Raman Rajagopal** (supra).

30. Our views are fortified further in view of the order of this Tribunal dated 31.08.2023 in OA 1363/2020 in **Lt. Col. Jitendra Singh (Retd) vs Union of India and others**

and the order dated 09.02.2024 of this Tribunal in OA 2060/2017 in the case of **Cdr Vishal Bhargava vs Union of India and others.**

31. As regards the contention raised on behalf of the applicant that the verdict of the Hon'ble Supreme Court in **Wg Cdr Subrata Das** (supra) is on distinguishable facts and relates to cases of the personnel of the Indian Air Force and not the Indian Army and that there is no analogous Human Resource Policy in the Indian Army, it cannot be overlooked, as observed by this Tribunal in **Lt Col Jitendra Singh** (supra) in OA 1363/2020 vide order dated 31.08.2023, the request for withdrawal of the Premature Release Application is to be processed at the MS Branch for sanction by the Competent Authority, keeping in mind organizational interest. **There is nothing to indicate vide the records produced by the Respondents that any extraneous factors have governed the decision of the Military Secretary in not approving the application dated 04.12.2025 seeking the application for withdrawal of the PMR application filed on 30.04.2024.**

32. Furthermore, as laid down in para 43 of the verdict of the Hon'ble Supreme Court in **Wg Cdr Subrata Das** (supra) the unrestrained choice of an employee to withdraw a request may be constrained if the employer had made arrangements acting on the letter to make another employee available for the job. In the instant case in view of the Advisory Board Proceedings dated 13.08.2024 adverted to in para 24 hereinabove whilst accepting the applicant's request of PMR in principle, it was recommended that he relinquished his then appointment of GE at Vizag, and consequently the applicant was posted to 102 Engr Regt vide the posting order no. A/55152/PO-206/MS-12A dated 29.08.2024, and he had then undergone a resettlement course from 07.07.2025 to 19.12.2025 as a consequence of which his date of PMR was extended from 10.09.2025 to 03.01.2026. The above is a clear indicator of the factum of the steps taken by the Respondents in organizational interest pursuant to the applicant's application for PMR dated 30.04.2024 having been accepted on 13.08.2024 by the Military Secretary of the Indian Army.

33. Furthermore, as observed by the Hon'ble Supreme Court in *Wg Cdr Subrata Das* (supra), the right to withdraw from an approved application seeking premature retirement from the Armed Forces is neither absolute nor unqualified and the very factum that there has been a considered application of mind on behalf of the respondents, whilst rejecting the application of the applicant for withdrawal of his application for premature retirement which is based on the needs and exigencies of the service in view of the factum that the applicant completed a DGR course at the expense of one vacancy & the Govt Exchequer, we hold that there is no merit in the prayer made by the applicant. The OA 4134/2025 is thus dismissed.

Pronounced in the Open Court on 15th day of January, 2026.

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

[JUSTICE ANU MALHOTRA]
MEMBER (J)

AP