

**COURT No.1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 1625/2017 WITH MA 1216/2017

Smt Surekha Jalinder More ... **Applicant**
(Wd/o Late Ex Nk JK More)

Versus

Union of India and Ors. ... **Respondents**

For Applicant : **Ms. Archana Ramesh, Advocate**

For Respondents : **Mr. Shyam Narayan, Advocate**

CORAM

HON'BLE MS. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant filed this OA praying to condone the shortfall of 4 months and 19 days so that she can be held entitled to grant of Family Pension along with all consequential benefits.

2. The husband of the applicant Late Nk JK More was enrolled in the Indian Army on 24.11.1975 and discharged on 05.07.1990 being an inefficient/undesirable soldier under item III(V) of the table as per Rule 13(3) of the Army Rules, 1954. As per the counter affidavit filed on 05.04.2021, during the service of 14 years and 205 days, the applicant was awarded several red ink entries, as specified

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below:

S.No	Offence under Army Act	Date of Offence	Punishment Awarded
(a)	Section 63	24.09.1982	Deprived of appointment of L/Nk
(b)	Section 48	01.09.1986	Severe Reprimand and 10 days pay fine
(c)	Section 39(d)	04.08.1988	Severe Reprimand
(d)	Section 48	09.09.1989	Severe Reprimand
(e)	Section 48 and Section 39(d)	11.12.1989	Severe Reprimand
(f)	Section 39(b)	07.02.1990	Reprimand
(g)	Section 39(b)	18.04.1990	Severe Reprimand

3. On a perusal of the documents placed on record, the limited question for our consideration is - Whether a personnel discharged as undesirable soldier will be entitled to condonation of shortfall in grant of service pension ?

4. We find that the applicant was negligent towards his duties and was indisciplined, and thus, during his service, the applicant was awarded seven punishments (seven red entries) for his irresponsible attitude and undisciplined nature towards his duties. Even after giving repeated warnings/counselling, the applicant did not show any improvement in his personal/military discipline and conduct. There being no other option, being an undesirable soldier, the

applicant was discharged from service as per Army Rule 13 (3) III (v) and Army Headquarters policy letter dated 28.12.1988.

5. With respect to the question under consideration, we find that this Tribunal has addressed this issue in *Joseph John Menezes Vs. UOI & Ors.* [AFT Lucknow- OA 298/2021; Date of Decision: 12.01.2022], and *Ex Rfn Sameer Gurung Vs. UOI & Ors* [AFT Guwahati- OA No. 09/2020; Date of Decision: 06.04.2023], wherein while the Regional Bench Guwahati in *Ex Rfn Sameer Gurung* (supra) has categorically held that the a soldier discharged as 'Undesirable Soldier' will not be entitled to the benefit of pensionary benefits, on the other hand, Regional Bench, Lucknow in *Joseph John Menezes* (supra) has held the applicant not entitled for condonation of shortfall in grant of service pension, being discharged as 'Undesirable Soldier'.

6. Accordingly, looking into the totality of the facts and circumstances, being similar to the aforesaid cases dealt by the Regional Benches of this Tribunal, we do not intend to differ from the ratio laid therein, and thus, we are of the opinion that the deceased soldier is not entitled to the

condonation of shortfall for the grant of pension, by virtue of being discharged as 'Undesirable Soldier'.

7. Consequently, the O.A. 1625/2017 is dismissed.
8. Pending application(s), if any, also stands disposed of.
9. No order as to costs.

Pronounced in the open Court on 5 day of December, 2024

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

(LT GEN C.P MOHANTY)
MEMBER (A)

/Akc/