

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

4.

OA 802/2025 with MA 1212/2025 & 1213/2025

Hav Rajinder Singh (Retd) & Ors. Applicant

VERSUS

Union of India and Ors. Respondents

For Applicant : Mr. Madan Pal Vats, Advocate
For Respondents : Ms. Sheetal Raghuvanshi, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER
24.03.2025

MA 1213/2025

MA 1213/2025 has been filed by the 15 applicants seeking to join together to institute the present OA submitting to the effect that they are aggrieved by the similar cause of action, they having been denied the OROP benefits as they had sought premature voluntary retirement. Counsel present submits that he represents all the 15 applicants. MA 1213/2025 is thus allowed and the 15 applicants are allowed to join together to institute the present OA.

MA 1212/2025

2. MA 1212/2025 has been filed by the applicants seeking condonation of 2062 days delay in institution of the OA which in view of the judgments of the Hon'ble Supreme Court in the matter

of *UoI & Ors. Vs Tarsem Singh* 2009(1)AISLJ 371 and in *Ex Sep Chain Singh Vs Union of India & Ors.* (Civil Appeal No. 30073/2017 and the reasons mentioned, the MA 1212/2025 is allowed and delay condoned.

OA 802/2025

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

“(i) Quashing and setting aside the disposal orders issued for disposing of the online complaints of the applicants (Annexure-A-01(Colly)(Impugned letter).

(ii) Quashing and setting aside the GOI, MoD, DESW (Respondent No. 1), letter dated 07.11.2015, [Annexure - A 02 (i)] (IMPUNGED LETTER/POLICY).

(iii) Quashing and setting aside the GOI, MOD, DESW (Respondent No. 1), letter dated 06.06.2017, [Annexure - A 02 (ii)] (IMPUNGED LETTER)

(iv) Quashing and setting aside the GOI, MOD, DESW (Respondent No. 1), letter dated 04.01.2023, [Annexure - A -02 (iii)] (IMPUNGED LETTER).

(v) Quashing and setting aside the detailed instructions issued by GOI, MOD, DESW (Respondent No. 1), vide their letter dated 20.01.2023, [Annexure - A 02 (iv)] (IMPUNGED LETTER).

(vi) Quashing and setting aside the PCDA (Pension) Circular No. 666 dated 20.01.2023

[Annexure A-02 (v)] (Colly) (IMPUNGED LETTER).

(vii) Quashing and setting aside the clarifications/instructions given to CGDA by GOI, MOD, DESW, vide their ID No. 1(1)/2019/D(P/P) dated 08.04.2022, [Annexure - A 02(vi)] (IMPUNGED LETTER).

(viii) Quashing and setting aside the GOI, MOD, DESW (Respondent No. 1), letter dated 20.07.2023 [Annexure-A-02(vii)] (IMPUNGED LETTER)

(ix) Quashing and setting aside the GOI, MOD, DESW (Respondent No. 1), vide their letter dated 10.07.2024, [Annexure-A-02(viii)] (IMPUNGED LETTER).

(x) Quashing and setting aside the detailed instructions issued by GOI, MOD, DESW (Respondent No. 1), vide their letter dated 04.09.2024, [Annexure- A -02 (ix)] (IMPUNGED LETTER).

(xi) Quashing and setting aside the PCDA (Pension) Circular No. 677 dated 06.09.2024 [Annexure-A-02 (x)] (Colly) (IMPUNGED LETTER).

(xii) Direct the respondents to grant the benefits of OROP to the applicants without any decimation w.e.f. 01 July 2019 and consequential benefits arising therefrom with the interest @12% on the arrears till realization of the actual payment.

(xiii) Pass any other or further order(s) as may be deem fit and proper, in favor of the applicants.

(xiv) To award the cost of the original application to the applicants.”

4. Notice thereof is issued to the respondents. At this stage, learned counsel for the applicant submits that the prayers through the present OA are confined to seeking the grant of the OROP benefits in terms of the orders of the AFI, Principal Bench, New Delhi in OA 313/2024 dated 31.01.2025. The issue involved in the present matter is no more *res integra*. This is so in view of the order dated 31.01.2025 of this Tribunal in OA 313/2022 in the case of *Cdr Gaurav Mehra (Retd.) vs. Union of India & Ors.* whereby vide Para 83 and 84 thereof, it was directed to the effect :-

“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.”

5. Furthermore, it is essential to observe that vide judgment dated 09.12.2024 in Civil Appeal no. 1943/2022 in *Lt Col Suprita Chandel vs. UOI & Ors.* which has been observed by the Hon'ble Supreme Court vide Para 14 and 15 thereof, 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)”

6. In the circumstances, subject to verification of the date of discharge and the nature of discharge of the applicant being on the grounds of premature voluntary retirement, the benefits of the OROP to the applicant to the extent as granted vide order

dated 31.01.2025 in OA 313/2022 be granted to the applicant
by the respondents.

7. The OA is disposed of, accordingly.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(MS. RASIKA CHAUBE)
MEMBER (A)

Yogita