

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

OA 12/2017

WITH

OA 1895/2012 (RB CHANDIGARH)

WITH

MA 4859/2023 and MA 3648/2025

**Lt. Col Manohar Singh Rathore(Retd) Applicant
Versus
Union of India and Ors. Respondents**

**For Applicant : Mr. Naresh Ghai, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC
Col. Balraj Sharma, SC Col Legal,
Territorial Army Dte.**

CORAM

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

ORDER

MA 4859/2023 in RA-1/2023

This MA was filed by the applicant in RA-1/2023.

2. RA-1/2023 was partly allowed vide order dt. 10.04.2023. Embodied service of the applicant taken on record as 14 years and 01 month, hence MA 4859/2023 in

RA-1/2023 filed on 28.07.2023 shall also stands disposed of.

MA 3648/2025 in OA 12/2017 (in OA 1895/2012, RB Chandigarh)

This MA filed by the Counsel for the Applicant be brought to our notice after the matter was Heard and Reserved. On enquiring from the Registry, it is apprised that this MA was filed on 20.07.2025, however it was lying in defect and defect was cured by the Counsel on 22.08.2025 whereas, the matter was Heard and Reserved on 12.08.2025. Under these circumstances we are not inclined to take up this MA now after decision has been dictated, hence stands disposed of.

Pronounced in open Court on this 4th day of December, 2025.

[JUSTICE NANDITA DUBEY]
MEMBER (J)


[RASIKA CHAUBE]
MEMBER (A)

/vks/kt

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

Dated: 4th December, 2025

ORDER

The applicant, a Lt. Colonel, was commissioned in the Territorial Army (TA-42081) and on attaining the age of 54 years superannuated on 16th June 1990. On being denied the service element of disability pension, the applicant filed

OA No. 1895/2012 before the Armed Forces Tribunal, Chandigarh challenging the IHQ order which granted him only the disability element.

2. In view of the orders passed on 7th December 2016 by this Tribunal in AT No. 45/2016 (RB Chandigarh), OA No. 1895/2012 was transferred to the Principal Bench and came to be registered as OA No. 12/2017. Vide order dated 1st December 2022, OA No. 12/2017 was partially allowed by rounding off the disability element granted to the applicant from 50% to 75% whereas the prayer for grant of service element of disability pension was rejected.

3. The order dated 1st December 2022 reads as under:

“1. The Applicant filed the OA praying for directions to the Respondents to (a) grant Service Element of Disability Pension (b) Rounding off the disability element of pension from 50% to 75% with effect from 01.05.2010 with interest @ 12%.

2. The Learned counsel for the Applicant submits that the Applicant was commissioned on 16.06.1990 as a Second Lieutenant in the Territorial Army and superannuated at the age of 54 years on 31.03.2010 after rendering 14 years and 2 days of Qualifying Service. The Applicant was diagnosed for Multi Fracture Distal Ulna (Rt & Lt) at the time of discharge and his disability was assessed @50%. The Applicant is in receipt of Disability element of Disability Pension @50% without the benefit of rounding off to 75%. The Applicant submits that he is eligible for condonation of shortfall upto 12 months under the clause “Late Entrant” which has been favourably

decided in many cases by AFT PB including TA 403/2010 Chd dated 26.05.2011 in the case of Maj HS Sekhon's widow. The shortfall in service, if condoned, would help him to become eligible for pensionable service of 15 years under existing provisions for Late Entrants. This would enable him also to earn Service Pension. The Applicant sent a Legal Notice dated 16.06.2012 which has not been replied. Hence, the Applicant seeks remedy through this Tribunal by filing the present OA.

3. The Learned Counsel for the Respondents admits that the Applicant was commissioned on 16.06.1990 as a Second Lieutenant in the Territorial Army and superannuated at the age of 54 years on 31.03.2010. The Release Medical Board held at MH, Kirkee on 11.01.2010 diagnosed the Applicant's disease as (i) Comminuted Fracture distal radius Ulna (Rt Optd) and (ii) Fracture Distal Ulna (Lt) assessed the disability @30% and 20% respectively, with composite assessment @50% for life, opining that the disability was attributable to Military Service. Accordingly, the Disability element of Disability Pension was granted to the Applicant with effect from 01.04.2010. Para 183 of Pension Regulations for the Army applicable to JCOs and PBOR and Para 292 clearly states that the grant of pensionary awards to personnel of Territorial Army shall be governed by the same general rules as are applicable to corresponding personnel at the Regular Army, except where they are inconsistent with the provisions of the regulations in this chapter. The minimum period of qualifying service is required for pension is 20 years (15 years in the case of a late entrant). Only mandated years of qualifying service shall count in the instant case and the petitioner does not fall under the condition of Para 25(a) as he has not rendered minimum period of qualifying service of 20 years. The Learned Counsel for the Respondents contends that the Legal Notice dated 16.06.2012 stated to have been sent by the Applicant has not been received by the Respondents. The statement of the Applicant that the Legal notice was not replied is baseless without any proof. The Counsel further submits that the Applicant's total commissioned service is 19 years, 9 months and 15 days out of which the Embodied service is 13 years, 4 months and 4 days.

Hence, this case is not covered by GoI MoD Letter No.68699/221/GS/ TA-3(a)/1181/B/D(GS-VI) dated 11 June 1985. As far as citation by the Applicant on the judgement in TA No.46/2010 dated 19.02.2010 is concerned, the Applicant Maj SD Singh (Retd) was accorded conditional sanction and the clause of Late Entrant applicability is under consideration with Ministry of Defence. Likewise Maj Hardev Singh Gil and Maj Garib Singh Bal have been granted conditional sanction for release of pension under the Late Entrant clause which is subject to change and the letter has been forwarded to AFT, Legal Cell (PB) New Delhi Area, for obtaining certificate under AFT Act 31 for filing Leave to Appeal before the Supreme Court. In the case of the widow of Major HS Shekhone, sanction has not been granted till date for Leave to Appeal. Hence, the Respondents pray to dismiss the OA being devoid of merit.

4. We have heard the arguments of the Learned Counsels for the Applicant and the Respondents and perused the documents placed on record.

5. Important facts of the case which merit highlighting are:

(a)The Applicant was commissioned in Territorial Army on 16.06.1990 as Second Lieutenant and superannuated at the age of 54 years on 31.03.2010.

(b)The Embodied Service of the Applicant is 13 years, 4 months and 4 days.

(c)Pensionary benefits under the ambit of Late Entrant Clause vide Para 34 of Pension Regulations for the Army 2008 is not applicable to Officers of the Territorial Army.

6. The following Regulations of Pension Regulations for the Army 2008 Part I are germane to this OA and are extracted as under :-

(a)182. The grant of pensionary awards to the service personnel shall be governed by the same general regulations as are applicable to the corresponding personnel of the Army except where they are inconsistent with the provisions of Regulations in this chapter.

The Regulations shall not apply to those who are

(i) Civil Government Servants holding permanent appointment and

(ii) Retired Civil Government Servants.

(b) Minimum Qualifying service for earning Retiring Pension

34. The minimum period of actual qualifying service (without weightage) required or earning a retiring pension shall be 20 years (15 years in the case of Late Entrants).

Explanation : For purposes of the Regulations in the Chapter, a 'Late Entrant' is an Officer who is retired on reaching the prescribed age limit for compulsory retirement with at least 15 years service (without weightage) qualifying for pension but whose total qualifying service is less than 20 years (without weightage).

7. From the aforesaid, it is clear that the Applicant has not completed 15 years of embodied service as required to the Late Entry benefit. The Applicant has only 13 years, 4 months and 4 days of embodied service and is not eligible for Service Pension even if he is given the benefit of one year condonation of shortfall in qualifying service. Hence it is clear that the Applicant's plea for Service Element of Disability Pension under the provisions of Late Entrant clause is not sustainable. As regards the judgment relied upon by Learned Counsel for the Applicant, it is the case of the respondents that application for grant of leave to appeal is still pending.

8. As far as broadbanding of the Disability Element of Disability Pension from 50% to 75% is concerned, we find that the Applicant is eligible for the same as per the principles laid down in the Honourable Supreme Court Order dated 10.12.2014 in Union of India Vs. Ram Avtar, Civil Appeal No.418 of 2012 and connected cases, wherein it has been observed that individuals similarly placed as the Applicant are entitled to rounding off of the disability element of pension.

9. We partially allow the OA and direct the Respondents to grant the benefit of broadbanding

of the Disability Element of Disability Pension from 50% to 60% with effect from the date of Disability Element having been granted to the Applicant. Arrears be paid within a period of 3 months from the date of receipt of a copy of this order. Failing to comply, the Applicant is entitled to the said arrears with interest at 6% per annum till the date of realization.”

4. The applicant thereafter filed a Review Application No. 1 of 2023 (in OA No. 12 of 2017) for correction of the tenure of embodied service in the order passed on 1st December 2022 and on the respondents confirming that the applicant had, in fact, 14 years and 1 month of embodied service, the same was allowed vide order dt. 10.04.2023, with regard to the embodied service of the applicant. Though there was no clear direction for rehearing of the matter, but vide the same order the OA was listed for further orders and directions on 24th April, 2023 with further directions to the respondents to file an affidavit indicating therein the period of embodied service of the applicant. The same is reproduced as under:

COURT No.2

ARMED FORCES TRIBUNAL PRINCIPAL BENCH: NEW DELHI

(THROUGH VIRTUAL HEARING)

*RA 1/2023 IN OA 12/2017
AND OA 1895/2012 (RB Chandigarh)*

Lt Col Manohar Singh Rathore (Retd).....Applicant

VERSUS

Union of India and Ors.-----Respondents

For Applicant : Mr. Naresh Ghai, Advocate

OA 12/2017 Lt Col Manohar Singh Rathore (Retd)

For Respondents: Mr. Prabodh Kumar, Advocate

CORAM

*HON'BLE MS. JUSTICE ANJANA MISHRA, MEMBER (J)
HON'BLE LT GEN BOBBY CHERIAN MATHEWS, MEMBER (A)*

*ORDER
10.04.2023*

Heard learned counsel for the parties.

Learned counsel for the respondents submits that as per the inputs received by him from the Department, it appears that the embodied service of the applicant is 14 years and 01 month. However, in the order, on the basis of the affidavit filed earlier, we had recorded the period of embodied service as 13 years, 04 months and 04 days and consequently is an error apparent on the face of the record.

In view of the aforementioned facts and circumstances and on the basis of the statement made at the Bar by learned counsel for the respondents with regard to the period of embodied service, we allow this RA.

OA 12/2017

List on 24th April, 2023 at 11 AM through Virtual Hearing for further orders and directions.

In the meanwhile, learned counsel for the respondents is directed to file an affidavit indicating therein the period of embodied service of the applicant.

5. From the aforesaid, it is clear that the RA was allowed with regard to the period of embodied service only and no specific direction for rehearing of the OA was made. Unfortunately by an inadvertent mistake while passing the order in RA, order was also passed on 24th April, 2023 for listing of OA 12/2017 (already disposed) for further order and directions while giving opportunity to Respondents, to file affidavit indicating therein the period of embodied service of applicant, though the same stood corrected by the former part of the same order. This was an inadvertent mistake and why we say so because, the RA was already allowed with

regard to the period of embodied service of the applicant. Taking advantage of the observation, "List on 24th April, 2023 at 11 AM through Virtual Hearing", the applicant now seeks grant of the prayers as made in OA No. 12 of 2017 para 7 of the order.

6. Nevertheless we have heard the counsel Mr. Naresh Ghai and Mr. Prabodh Kumar, Sr. CGSC again. The applicant in support of his case has cited the following judgments, wherein this Tribunal held that the officers of the Territorial Army having 15 years of qualifying service are entitled to the late entrant pension:

Maj S.D. Singh Vs. Union of India (TA 46/2010) dated 9.2.2010

(>16 yrs 92 days service)

Maj Hardev Gill (OA 205/2010) dated 26.5.2010 **(16 yrs. service)**

Maj Gharib Singh Bal (OA 414/2010) dated 20.10.2010

Maj P C Gupta (OA 164/2010) 6.5.2010

(> 18 yrs of service)

Mrs Sunita W/o Maj R.P. Chauhan (OA 263/2010) dated 26.5.2010

7. Additionally, by referring to an order passed by the AFT RB Chandigarh in TA 403/2010, Ms. Pushpender w/o Maj.

HS Shekhom Vs. Union of India and Others, **it is** submitted that the Tribunal condoned the deficiency of service to make the widow of the Territorial Army officer eligible for grant of pension/gratuity. He has also made reference to the Raksha Mantri's Committee of Experts Report to substantiate his case.

8. On the other hand, learned counsel for the respondents refuted the contentions of the applicant and stated that the "late entrant" clause is not applicable in the case of the Territorial Army. In the present case, even if the late entrant clause was to be made applicable, the minimum service requirement is 15 years, whereas the applicant has only 14 years and 1 month of embodied service. The respondents have further stated in their written submission that condonation of service up to one year is not available to officers. As per Regulation 125 of the Pension Regulations for the Army, 1961, and Regulation 44 of the Pension Regulations for the Army, 2008 Part -1, condonation of service for pension purposes is applicable only in the case of PBORs.

9. To substantiate this point, during oral submissions and written submissions provided, it was pointed out by the Respondents that there are nine Chapters in the Pension Regulations for the Army, 2008 Part-1. Some Chapters and their provisions are specific to Regular Commissioned Officers (Chapter II, Section-1), PBORs (Chapter II, Sections 1 and 2), DSC personnel (Chapter VIII), and TA personnel (Chapter IX, Section-1), while other Chapters such as Chapters V and VI are generic and applicable to all.

10. Regulation 34, pertaining to late entrants, comes under Chapter II, Section-1: Officers, Sub-Section II: Retiring Pension, which is specific to Commissioned Officers who retire on reaching the prescribed age limit for compulsory retirement with at least 15 years of qualifying service for pension but whose total qualifying service is less than 20 years. This provision of late entrant service has not been extended to Territorial Army Officers or to Short Service Commissioned Officers. Similarly, the provisions regarding condonation of service is placed in the Chapter for PBOR's and is not applicable to officers of the Armed Forces.

11. In view of the submission made by the parties, the question that needs consideration by this Tribunal is as to whether the applicant, who was a Lt. Colonel in the Territorial Army at the time of superannuation, is entitled to the service element of disability pension by treating him as a "late entrant," for which 15 years' service is the basic pre-requisite and by condoning 11 months' deficiency in service to make the applicant eligible for grant of service pension/service element.

ANALYSIS

12. At this stage it may be relevant to reproduce Regulation 292 of the Pension Regulation for the Army for Territorial Army and same is reproduced as under:

"The grant of pensionary awards to members of the territorial Army shall be governed by the same general regulations as are applicable to the corresponding personnel of the Army except where they are Inconsistent with the provisions of regulations on this chapter".

As per Regulation 292, the grant of pensionary award to members of Territorial Army shall be governed by same general regulations as are applicable to the corresponding personnel of the Army.

The late entrant clause is indicated in Chapter II, Section-1, Sub-section II, Regulation 34 of the Pension Regulations for the Army,

2008, Part-I, which (as indicated in Regulation 28 of the same Chapter) is meant for regular commissioned officers and reads as under:

34. The minimum period of actual qualifying service without weightage) required for earning a retiring pension shall be 20 years (15 years in the case of late entrants).

Explanation:-

For purpose of the Regulations in this Chapter, a 'late entrant' is an Officer who is retired on reaching the prescribed age limit for compulsory retirement with at least 15 years service (without weightage) qualifying for pension but whose total qualifying service is less than 20 years (without weightage).

13. The issue whether the 'late entrant' clause is applicable to Territorial Army (TA) personnel has been affirmed by Hon'ble Supreme Court in the case of Union of India Vs. B.D. Mishra, /Civil Appeal D. No. 28183 of 2013 duly stating that "no substantial question of law of general/public importance arises for our consideration. The prayer for leave to appeal is accordingly declined and the application dismissed". However, it is pertinent to mention here that while passing order in B.D. Mishra Vs. UOI the AFT had placed reliance on the order in OA 165 of 2010, Major S.D. Singh (Retd.) & Ors. v. UOI dt. 19.10.2012. This order however, has been challenged in the Hon'ble Apex

Court vide Dy No. 822/2014 and the judgment is still pending. Since the matter is not stayed there are a catena of judgments of this Tribunal extending the late entrant clause to the Territorial Army officers. In the case of Lt. Col Charanjit Singh (Retd.) v. UOI, OA 332/2016, this Tribunal has observed in Para 10 to 15 as under:

“10. We find that the issues before this Court are (a) Whether a TA commissioned officer is entitled to the same pensionary benefits as a regular commissioned Army Officer, (b) Whether the total service of the applicant adds upto 17 years, 3 months and 13 days, as claimed by the applicant, and (c) whether the applicant can claim status as a ‘late entrant’ , which would then qualify him for service pension, as he would have more than 15 years of qualifying service for pension.

11. We find that Para 292 of Chapter V of the Pension Regulations of the Army 1961, which deals with the Territorial Army, clearly states that grant of pensionary awards to members of the Territorial Army shall be governed by the same general regulations as are applicable to the corresponding personnel of the Army, except where they are inconsistent with the provisions of regulations in this Chapter. This aspect has been clarified subsequently by Govt. of India vide its policy letters with regard to implementation of Fifth and Sixth Central Pay Commission recommendations, vide its letters of 30.10.1987 and 03.02.21998, whereby TA officers have been clubbed with regular commissioned Army officers.

12. We also find that the total service of the applicant works out to 17 years, 3 months and 13 days, as admitted by the respondents in their counter affidavit, and stated in IHQ of MoD (Additional Directorate General Territorial Army) letter No. 07.11.2006.

13. Counsel for the applicant has argued that, the term ‘late entrant’ is essentially meant for TA officers

as they are the only officers who are commissioned at a higher age and are more liable to superannuate without completing full qualifying period for earning service pension. Respondents, on the other hand, contend that the provisions of Chapter II of the Pension Regulations of the Army (PRA) as mentioned in Para 14 and Para 26), are only applicable to regular commissioned officers and officers of the Military Nursing Service, and thus are not applicable in entirety to officers of the Territorial Army, who are covered by Chapter V of the PRA 1961. Para 292 of PRA 1961 refers to exceptions in equality of pension regulations between the TA and Regular Army when it stipulates "where they are inconsistent with the provisions of regulations in this Chapter". The respondents thus argue that the provision of late entrant' is only applicable to regular commissioned officers of the Indian Army and the Military Nursing Service, but not to the officers of Territorial Army.

14. We find the arguments put forth by the respondents on this aspect quite fallacious, keeping in view the catena of judgments by various Benches of this Tribunal since 2010.

In fact, the Hon'ble Apex Court has, on one occasion, declined to allow leave to appeal' to the respondents against such a judgment of the Tribunal, ie. Order of 29.11.2013 by the Hon'ble Supreme Court in the case of Union of India Vs. B.D. Mishra, /Civil Appeal D. No. 28183 of 2013 (for preliminary hearing). The point which clearly stands out in favour of the applicant is that, if this provision of 'late entrant' is not applicable for a TA officer, then, who else is it meant for? Thus, we find that the applicant is entitled to the categorization of 'late entrant, and consequent pensionary benefits.

15. Accordingly, the OA bears merit and is allowed. The applicant is granted service pension with effect from 01.06.2015. Arrears will be paid to him within a period of four months, failing which, he will be entitled to interest @ 8% per annum."

14. The Hon'ble Supreme Court in case of UOI v. Abhiram Verma, while explaining the object and purpose of "late entrant" has observed in para 11 as under:

"11. In light of the above findings, it is required to be considered whether the respondent can be said to be a "late entrant" and is entitled to the benefit of Regulation 15 as a "late entrant" and the pensionable

benefits or not? Regulation 15 reads as under:

"Regulation 15 - Late Entrants

"15. For purposes of the regulations in this Chapter, a 'late entrant' is an officer who is retired on reaching the prescribed age limit for compulsory retirement with at least 15 years commissioned service (actual) qualifying for pension but whose total qualifying service is less than twenty years (actual)."

As per Regulation 15, a "late entrant" is an officer who is retired on reaching the prescribed age limit for compulsory retirement with atleast 15 years commissioned service (actual). As the respondent did not retire on reaching the prescribed age limit for compulsory retirement, the respondent cannot be said to be a "late entrant". The purpose and object seems to be to give 5 years relaxation/grace for qualifying service for earning a retiring pension. As per Regulation 25(a), the minimum period of qualifying service actually rendered and required for earning a retiring pension shall be 20 years. However, if an officer is not able to complete the minimum period of qualifying service, i.e., 20 years and before completing 20 years of service his attaining the age of superannuation and is retired on reaching the prescribed age limit of compulsory retirement, but has completed 15 years of qualifying service, he is considered as a "late entrant" and is entitled to pensionary benefits by getting 5 years grace period. Therefore, to that extent the same can be said to be a relaxation/grace of 5 years for getting the benefit of pensionable benefits provided the case falls within Regulation 15 and an officer is a "late entrant"

15. In the instant case the applicant though retired on reaching the prescribed age limit for compulsory retirement but did not have the requisite 15 years of commissioned service (actual) to his credit. His actual service being 14 yrs.

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And 1 month only, the question before us is whether this shortfall of 11 months can be condoned to bring him within the ambit of 'late entrant' for grant of pension.

16. Regulation 44 of the Pension Regulation for Army personnel 2008 Part-1 is specifically meant for PBORs and provides for condonation upto 12 months of deficiency for eligibility to pension/gratuity and reads as under:-

44. The deficiency in service for eligibility to pension/gratuity may be condoned upto 12 months in each case by competent authority except in the case of:-

(i) an individual who is discharged at his own request;

(ii) an individual who is invalided with less than 15 years of service.

(iii) who is eligible for special pension or gratuity under these Regulations.

17. This provision cannot be made applicable to Regular Commissioned officers or officers of the Territorial Army (TA) in view of Regulation 292 of the Pension Regulations for the Army which restricts the application to the "Corresponding Personnel" of the Army where they are Inconsistent with the provisions of regulations on this chapter".

18. As this condonation of shortfall in service is not made applicable to commissioned officer, the same would not

applicable to corresponding Territorial Army Commissioned Officer like applicant who retired as Lt. Colonel.

19. So far as the reliance placed upon the decisions of this Tribunal in the cases of Major S D Singh (Supra), Maj Hardev Gill (Supra), Major Gharib Bal (Supra), Maj P. C. Gupta and Maj RP Chaudhary (Supra), is concerned, the same shall not be applicable to the facts of the case on hand and or shall not be of any assistance to the applicant as in all those cases the applicants therein had completed more than 15 yrs. of actual service on superannuation and were granted pension considering them as late entrant.

20. The learned counsel for the applicant has placed heavy reliance on the case of Smt. Pushpinder Kaur, widow of a Territorial Army Officer, Major H.S. Sekhon (supra), wherein service pension was granted by the Court despite the fact that the individual had rendered only 14 years and 6 months of embodied service. However, it is pertinent to note that the said case had been decided as a special case in view of the "peculiar circumstances" where the claim was made by the widow and it was clearly stated in the order that it would not be considered as a precedent.

21. We are of the considered opinion that in view of the earlier judgments, the benefit of the provisions of late entrant will be applicable in the present case, but the fact that the applicant's service is only 14 years 1 month, he is short by 11 months in fulfilling the 15 years of qualifying service needed for pension. As per Regulation 44, of the Pension Regulation of Army, 2008 (Pt-1) the deficiency in service of the applicant for pensionary purpose cannot be condoned since this Regulation is applicable only to PBORs. The applicant, being short of the embodied service required for pension, cannot be granted any relief, and the OA, being devoid of merit, is liable to be dismissed. Ordered accordingly.

22. Pending MA(s) also stands closed.

Pronounced in open Court on this 4th day of December, 2025.

[JUSTICE NANDITA DUBEY]
MEMBER (J)


[RASIKA CHAUBE]
MEMBER (A)

/vks/kt

