

COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

1

OA 1243/2025 with MA 1814/2025 & MA 1815/2025

Naik (ACP-1) Dharmendra
Kumar Singh (Retd.) & Ors. Applicant

VERSUS

Union of India and Ors. Respondents

For Applicant : Mr. Madan Pal Vats &
Dr. Abhay Kant Upadhaya, Advocates

For Respondents : Ms. Nehal Jain, Advocate

CORAM

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

ORDER
30.04.2025

MA 1815/2025

MA 1815/2025 filed by the 16 applicants seeking to join together to institute the OA, submitting to the effect that they are all aggrieved by a similar cause of action, in view of the averments made in the application MA 1815/2025 is allowed and the 16 applicants are allowed to join together to institute the present OA.

MA 1814/2025

2. Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in *Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648]*, the MA is allowed condoning the delay of 2098 days in filing the OA. The MA stands disposed of.

OA 1243/2025

3. The applicants 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)] (Impugned Letter/Policy) and 06.06.2017 [Annexure-A-02(ii)] (Impugned Letter/Policy).

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

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

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

4. Notice of the OA is issued and accepted on behalf of the respondents.

5. The applicants in this OA were enrolled in the Indian Army and discharged from the service at their own request as per details mentioned below :-

S No.	Service Particulars	Date of Joining	Date of Discharge	Length of Service
1	4276551-F Naik (Acp-1) Dharmendra Kumar Singh (Retd.)	27.01.1998	31.07.2015	17 years, 06 months and 05 days
2	04272454-M Hav Jeet Singh Munda (Retd.)	28.10.1994	31.07.2015	20 years, 09 months and 04 days
3	4274432-M Hav Rupesh Kumar Singh (Retd.)	28.02.1996	31.03.2015	19 years, 16 days
4	4272032-F Havildar Suresh Prasad Yadav (Retd.)	25.04.1994	31.10.2014	20 years, 06 months and 06 days
5	4276396-L Naik (ACP-1) Permeshwar Singh (Retd.)	03.01.1998	31.08.2015	17 years, 07 months and 29 days
6	4273921-L Hav Rajnish Purty (Retd.)	28.08.1995	31.03.2015	19 years, 07 months and 04 days
7	04276577-W Naik (ACP-1) Pankaj Kumar Singh (Retd.)	13.02.1998	28.02.2015	17 years and 16 days
8	4275723-Y Naik (ACP-1) Guru Charan Bodra (Retd.)	30.12.1996	30.09.2015	18 years, 09 months and 02 days
9	4276532-W Naik (ACP-1) Kara Murmu (Retd.)	27.01.1998	31.08.2015	17 years, 07 months and 05 days
10	04275465-K Naik (ACP-1) Tushar Barda (Retd.)	30.10.1996	28.02.2015	18 years, 04 months and 02 days
11	4274873-H Naik (ACP-1) Katara Kalpesh Kumar Bachu Bhai (Retd.)	26.04.1996	28.02.2015	18 years, 10 months and 05 days
12	04273341-W HAV Bhagora Girish Bhat Laxman Bhai (Retd.)	22.04.1995	28.02.2015	19 years, 10 months and 09 days
13	4273347-X Naik (ACP-1) Ninama Krushan Bhai Rajaji (Retd.)	22.04.1995	28.02.2015	19 years, 10 months and 09 days
14	04272385-F Hav Lakhan	28.08.1994	28.02.2015	20 years, 06

	Lal Sirka (Retd.)			months and 04m days
15	04275620-A Naik (ACP-1) Suresh Singh (Retd.)	28.12.1996	30.11.2014	17 years, 08 months and 27 days
16	04273103-K Naik (ACP-1) Hakim Mohd Yasin	28.02.1995	30.09.2015	20 years, 07 months and 02 days.

6. As a consequence of which having sought premature retirement, in this OA, all applicants have been denied the grant of the OROP benefits in view of the order dated 31.01.2025 in OA 313/2022 of the AFT (PB) New Delhi in *Cdr Gaurav Mehra vs Union of India* and other connected cases, read with the order dated 15.04.2025 in RA 9 of 2025 in OA 426 of 2023.

7. Apparently, the applicant who was discharged from service prior to the date 07.11.2015 on the basis of his having sought premature retirement is entitled to the grant of the OROP benefits and the matter is no longer in issue in view of observations in paragraphs 83 and 84 in OA 313/2022 of the AFT (PB) New Delhi in *Cdr Gaurav Mehra vs Union of India* and other connected cases, which read 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 form 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.”

read with order dated 15.04.2025 in RA 9 of 2025 in OA 426 of 2023 with observations in para 6 which read to the effect:-

“6. With respect to the classification of the original applicants into three categories, we are of the considered view that the issue for review is relevant only to categories (b) and (c). For applicants in category (b), those who applied for the PMR between 01.07.2014 to 06.11.2015, the principles advanced by the learned Assistant Solicitor General will not apply considering the prospective nature of the memorandum dated 07.11.2015. Therefore, the prayer for review concerning these original applicants i.e., Cat (B) stands rejected.

6(A). For the original applicants who applied for the PMR after the policy dated 07.11.2015 came into effect (category c), the non-applicants (Uol) are directed to serve notice through the respective counsels who represented them in the original application. If the counsel who appeared in the original OAs accepts notice on behalf of the said original applicants, service may be considered complete. In case any counsel does not accept notice, notice to such original applicants be served by speed post. After service the original applicants shall have four weeks to file any reply or objections to the RA, through their counsel if so advised.”
(emphasis supplied)

8. As laid down by the Hon’ble Supreme Court in *Lt Col Suprita Chandel vs Union of India and Ors* (Civil Appeal No. 1943 of 2022) vide Paras 14 and 15 thereof to the effect:-

"14. It is a well settled principle of law that where a citizen 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)

the applicant is thus entitled to seek the grant of the relief that he prays for and is also entitled to the grant of the relief that he prays for.

9. In view thereof, the respondents subject to verification of the date of discharge of the applicant & the nature of the discharge of the applicant being due to premature voluntary retirement alone is held entitled to the

grant of the OROP benefits to the applicant, which the respondents are accordingly directed to grant and pay to the applicant.

10. The OA 1243/2025 is thus disposed of accordingly.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

(MS. RASIKA CHAUBE)
MEMBER (A)

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