

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

1.

OA 1569/2025 with MA 2346/2025 & 2347/2025

Maj Kavish Aggarwala & Ors. Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Applicant in person with
Mr. Shubham Kumar, Advocate
For Respondents : Maj Satvik Grover, OIC Legal Cell

CORAM

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

ORDER
26.05.2025

Learned counsel Mr. Shubham Kumar for the 245 applicants is present.

2. At the outset, it is submitted on behalf of the applicants that among the 245 arrayed to the present OA, some of them are retired personnel and some of them are in service currently. Though, no notice had been issued to the respondents, a submission is made on behalf of the respondents that apparently the 245 applicants belong to the three wings of the Armed Forces which aspect is not refuted by the counsel for the applicants.

3. In the present circumstances, for an expeditious adjudication (it is considered appropriate that the said applicants file the present OAs separately in relation to the redressal sought against the Army, Navy and Air Force as also and in relation to those armed forces personnel who have retired and those that are in service. Counsel for the applicant thus seeks to withdraw the

present OA seeking liberty to file it a fresh in accordance with law with the requisite applications under Section 4(5) of the Armed Forces Tribunal (Procedure) Rules, 2008, to bring forth the aspect that applicants therein would be seeking to file an OA in the representative capacity based on the similar cause of the action and all being represented by the counsel whose power of attorney would necessarily have to be on the record. The OA 1569/2025 is thus dismissed as withdrawn with liberty granted as prayed.

4. However, it is essential to observe that placed on record is a copy of order dated 17.04.2025 passed by the Hon'ble High Court of Delhi in W.P.(C) 2189/2025 and CM Application No. 10334/2025, whereby vide para 1 thereof, it is observed to the effect:-

"1. In this matter, on the last date of hearing, a preliminary objection had been raised by Mr. Tiwari, learned counsel for the respondents that the present lis would lie before the Armed Forces Tribunal."

The same, itself, indicates that there is a previous date of hearing and a previous order of the Hon'ble High Court of Delhi in the said writ petition. Thus, as and when any application(s) is(are) filed on behalf of the applicants who have sought to withdraw the present OA, copy of the proceedings prior to the date 17.04.2025 in W.P. (C) 2189/2025 be placed on record by those applicants.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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

RA 21/2025 in OA 1569/2023

Maj Kavish Aggarwala (Retd) Applicant

VERSUS

Union of India and Ors. Respondents

For Applicant : in Person
Mr. Shubham Kumar, Advocate

For Respondents: None
Maj Satvik Grover, OIC, Legal Cell

CORAM

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

ORDER

Writ Petition (Civil) 2189/2025 was filed before the Hon'ble High Court of Delhi by the 245 Short Service Commissioned Officers (both serving and retired) of the Armed Forces i.e. Indian Army, Indian Air Force and Indian Navy of whom as per the memo of parties therein:-

57 have retired from the Indian Army;

32 have retired from the Indian Air Force;

71 have retired from the Indian Navy; and

85 are still in the services of the Armed Forces.

2. The prayers made in the said WP(C) were to the effect:-

“A. Issue an appropriate writ, order(s) or direction(s) under Article 226 of the Constitution of India in the light of circumstances and in the interest of justice directing grant, from retrospective effect, of post-retirement benefits of NPS and Contributory Provident Fund along with arrears of interest, to the Petitioners;

B. Hold that there is no rational basis to discriminating against the Petitioners in comparison to Coast Guard personnel and other government officials across the nation, all who are entitled to the benefits of either OPS or NPS/UPS and/or Contributory Provident Fund;

C. Direct the respondents to carry out necessary changes in the Pension Regulation of Army, Navy and Airforce to accommodate grant of NPS/UPS and Contributory fund to the Petitioners;

D. Direct the respondents to treat the contributions made by the Petitioners to the Defence Service Officer Provident Fund (DSOP Fund) as contributions to a Contributory Provident Fund. And further direct the Respondents to grant the Petitioners interest at the rate of 18% per annum on the retrospective contributions, from the date of their respective contributions to the present date.

E. Direct the respondents to not take retributive or punitive action against the petitioners for filing the present case,

F. Award costs of the filing the present case in favour of the Petitioners,

G. Issue an appropriate writ, order(s) or direction(s) under Article 226 of the Constitution of India in favour of the Petitioners as deemed fit by this Hon'ble Court as per the facts and circumstances of the present matter and in the interest of justice."

3. Before institution of the WP (C) 2189/2025 dated 22.01.2025 before the Hon'ble High Court of Delhi as per averments in the synopsis and list of dates filed in WP (C) 2189/2025, a WP (C) 257/2024 was filed on 12.03.2024 before the Hon'ble Supreme Court by 340 petitioners in which 605 more petitioners sought on 02.03.2024 to be impleaded by way of 13 impleadment applications filed in WP(C) 257/2024.

4. Vide order dated 27.11.2024 in WP (C) 257/2024 with WP (C) 496/2024, the said Writ Petitions were dismissed and the applications for impleadment were rejected by the Hon'ble Supreme Court observing to the effect:-

"Applications for intervention/impleadment are rejected.

We are not inclined to entertain the present petitions filed under Article 32 of the Constitution of India.

The Writ Petitions are dismissed accordingly.



However, it will be open for the petitioners to approach the appropriate forum(s)/court(s) where appropriate relief can be claimed. Pending application(s), if any, shall stand disposed of.”

and thus directed that it was open to the petitioners to approach the appropriate forum(s)/court(s) where appropriate relief can be claimed.

5. Vide order dated 17.04.2025 in WP (C) 2189/2025 and CM 10334/2025 (filed only by 245 petitioners as per the memo of parties on record) it was directed by the Hon'ble High Court of Delhi to the effect:-

“1. In this matter, on the last date of hearing, a preliminary objection had been raised by Mr. Tiwari, learned Counsel for the respondents that the present lis would lie before the Armed Forces Tribunal .

2. Having heard learned Counsel for the parties, we are inclined to agree with the submission. At this juncture, Mr. J. Sai Deepak, learned Senior Counsel for the petitioners' prays, on instructions, that this writ petition may be transferred to the AFT so as to expedite matters and avoid duplication of the proceedings.

3. Accordingly, we permit the petitioners to present this writ petition along with entire record of this writ petition before the AFT which would deal with the writ petition treating it as an original application in accordance with law.

4. *For the said purpose, the Registry is directed to provide the electronic copy of the writ petition to the petitioners so that it can be presented before the AFT.*

5. *It is made clear that we have not expressed any opinion on the merits of the matter.*

6. *The writ petition is accordingly dismissed.”*

(emphasis supplied)

The Hon'ble High Court of Delhi thus permitted the said petitioners to present WP (C) 2189/2025 before the Armed Forces Tribunal with directions to the Armed Forces Tribunal to deal with the Writ Petition treating it as an Original Application in accordance with law, with it having been made clear vide the said order that no opinion on the merits of the matter had been expressed.

6. Consequentially, the said WP (C) 2189/2025 before the Hon'ble High Court of Delhi, having been presented before this Tribunal was taken up for consideration on 26.05.2025. Vide order dated 26.05.2025 in OA 1569 of 2025 with MA 2346 of 2025 and MA 2347 of 2025, it was observed to the effect:-

“Learned counsel Mr. Shubham Kumar for the 245 applicants is present.

2. At the outset, it is submitted on behalf of the applicants that among the 245 arrayed to the present OA, some of them are retired

personnel and some of them are in service currently. Though, no notice had been issued to the respondents, a submission is made on behalf of the respondents that apparently the 245 applicants belong to the three wings of the Armed Forces which aspect is not refuted by the counsel for the applicants.

3. In the present circumstances, for an expeditious adjudication (it is considered appropriate that the said applicants file the present OAs separately in relation to the redressal sought against the Army, Navy and Air Force as also and in relation to those armed forces personnel who have retired and those that are in service. Counsel for the applicant thus seeks to withdraw the present OA seeking liberty to file it a fresh in accordance with law with the requisite applications under Section 4(5) of the Armed Forces Tribunal (Procedure) Rules, 2008, to bring forth the aspect that applicants therein would be seeking to file an OA in the representative capacity based on the similar cause of the action and all being represented by the counsel whose power of attorney would necessarily have to be on the record. The OA 1569/2025 is thus dismissed as withdrawn with liberty granted as prayed.

4. However, it is essential to observe that placed on record is a copy of order dated 17.04.2025 passed by the Hon'ble High Court of Delhi in W.P.(C) 2189/2025 and CM Application No. 10334/2025, whereby vide para 1 thereof, it is observed to the effect:-

“1. In this matter, on the last date of hearing, a preliminary objection had been raised by Mr. Tiwari, learned counsel for the respondents that the present lis would lie before the Armed Forces Tribunal.”

The same, itself, indicates that there is a previous date of hearing and a previous order of the Hon'ble High Court of Delhi in the said writ petition. Thus, as and when any application(s) is(are) filed on behalf of the applicants who have sought to withdraw the present OA, copy of the proceedings prior to the date 17.04.2025 in W.P. (C) 2189/2025 be placed on record by those applicants."

Thus, in terms of order dated 26.05.2025 of this Tribunal, OA 1569 of 2025 was dismissed as withdrawn with liberty granted as prayed.

7. On behalf of the applicants, the present RA 21/2025 has been filed by applicant no 1 in OA 1569 of 2025 seeking to the effect:-

"A. That the Applicant respectfully prays for a review of the order dated 26.05.2025 passed by this Hon'ble Tribunal in Original Application No. 1569/2025, to the limited extent that the Applicant has been directed to file separate applications and submit documents service-wise, i.e., individually for the Army, Navy, and Air Force.

B.It is humbly prayed that this Hon'ble Tribunal may be pleased to modify the said order and permit the Applicant to submit a consolidated petition in two categories-Retired and Serving SSCOs-along with a unified set of documents encompassing relevant records from all three services, without requiring service-wise segregation.

C. Alternatively, pass such other or further order(s) as this Hon'ble Tribunal may deem fit in the interest of justice, equity, and the efficient adjudication of the matter."

Submissions were addressed on behalf of either side in relation thereto.

8. It is essential to advert to Rule 4(5) of the Armed Forces Tribunal (Procedure) Rules 2008 framed by the Central Government in exercise of powers conferred by clauses (f), (g) and (k) of sub-section (2) of Section 41 of the Armed Forces Tribunal Act, 2007 (55 of 2007).

Rule 4 (5) of the Armed Forces Tribunal (Procedure) Rules 2008 reads to the effect:-

"4. Procedure for filing applications.-

(1) xx

(2) xx

(3) xx

(4) xx

*(5) Notwithstanding anything contained in sub-rules (1) to (3), the Tribunal may permit more than one person, **other than the person serving in the regular Army, Navy or Air Force** to join together and file a single application if it is satisfied, having regard to the cause of action and the nature of relief prayed for, that they have a common interest in the matter:*

Provided that all affected persons are impleaded as parties and they join together to file such an application, when they are

likely to be affected by the decision in the case.”

Though vide para 3 of the order dated 26.05.2025 in OA 1569 of 2025, it had been directed that the applicants file separate OA's in relation to redressal sought against the Army, Navy and Air Force, as also in relation to those Armed Forces Personnel who have retired and those that are in service, which had been so directed for an expeditious adjudication as the OA 1569 of 2025 had been filed by 245 applicants belonging to the three wings of the Armed Forces, **it cannot be overlooked that in terms of Rule 4(5) of the Armed Forces Tribunal (Procedure) Rules 2008 itself, there is a specific embargo on more than one serving personnel of the regular Army, Navy or Air Force instituting an original application before the Tribunal.** In terms of Rule 4 (5) of the AFT (Procedure) Rules 2008, thus, the Tribunal **may** permit more than one person **other** than the persons serving in the regular Army, Navy or Air Force to join together and file a single application if it is satisfied, having regard to the cause of action of the nature relief prayed for that they have a common interest in the matter.

9. Thus, in terms of Rule 4(5) of the AFT (Procedure) Rules 2008, it is apparent that only one serving officer can file an original application to seek redressal in terms of the Armed Forces Tribunal Act 2007 and more than one serving Armed Force Personnel cannot join to institute the original application to seek redressal. Thus to this extent, the modification of the order dated 26.05.2025 in OA 1569/2025 has to be made.

10. Thus, the prayer made by the applicant no 1 vide RA 21 of 2025 seeking that the applicant be permitted to submit a consolidated petition in two categories:-

(i) retired and

(ii) serving SCCOs

along with a unified set of documents and canvassing relevant records from all three services without requiring service wise segregation cannot be permitted.

11. The other prayer made by the applicant no 1 of OA 1569 of 2025 dismissed as withdrawn with liberty granted to the extent as granted vide order dated 26.05.2025 is virtually to the effect that the applicants of the said OA need not file consolidated petitions

requiring service wise segregation (i.e. for the Army, Navy and Air Force).

12. It is submitted through the present application that the segregation service wise for instituting of the OA service wise would result into:-

- procedural inconsistencies,
- overlapping document requirements,
- delays in processing; and
- internal routing within each service branch,
- Collection of necessary documents from each branch is considerably burdensome and time consuming..

13. Vide the RA 21/2025, the applicant no 1 of OA 1569 of 2025 which has since been dismissed as withdrawn submits that there is no discernible policy based justification for imposing different procedural requirements on the three forces as each perform overlapping governmental duties and the documents in question are fundamentally the same.

14. It is further submitted through the present application that the directions dated 26.05.2025 for submitting separate OAs service wise would result into

unnecessary duplication, delay in adjudication, increased cost and administrative mischief which is contrary to the interest of justice and efficiency and would result in duplication of work without added value and that rather a unified submission would significantly economise time and resources. It has been submitted through this application that the applicants of the OA 1569 of 2025, some of whom have retired are Short Service Commissioned Officers or have been commissioned after 01.04.2024 from all the Armed Services, Branches, Cadres and Departments of the Indian Army, Navy and Air Force and have been constrained to institute the *lis* seeking redressal of their plight as being the only class of government servants in the whole nation who have been deprived of retirement benefits under the old Pension Scheme, the new National Pension Scheme, Unified Pension Scheme as well as benefits of Contributory Provident Funds.

15. It is essential to observe that Rule 4 (5) of the Armed Forces Tribunal (Procedure) Rules, 2008 empowers the Tribunal by a **discretionary 'may'** to permit more than one person, **other than the person serving in the regular Army, Navy or Air Force** to join together and file a single

application if it is satisfied, having regard to the cause of action and the nature of relief prayed for, that they have a common interest in the matter.

16. It is apparent therefrom that the discretion to permit **more than one person other than the person serving in the regular Army, Navy or Air Force** to join together and to file a single application is based on the satisfaction of this Tribunal having regard to the cause of action and the nature of relief prayed for that they have a common interest in the matter. Undoubtedly, on first blush, though, it appears that the applicants all seem to contend that they have a grievance on the basis of a similar cause of action and have a common interest in the matter, it cannot be overlooked that the records of the Indian Army, Indian Navy and Indian Air Force in relation to the personnel of the three services both serving and retired, are maintained at different locations and not in the same office. Furthermore, the length of service of each of the retired personnel also would vary, and there are different organizational cadres in the three wings of the Armed Forces.

17. In these circumstances, for an ease and expedition in the adjudication of the prayers made by the applicants of OA 1569 of 2025, it is essential that applications by retired personnel of the Indian Army, Indian Navy and Indian Air Force are filed separately which would enable the respondents also to file their responses effectively and expeditiously.

18. Thus, the order dated 26.05.2025 to the extent that it directs that the said OAs be filed separately by segregation service wise needs no modification whatsoever. However, the implicit permission granted vide order dated 26.05.2025 in OA 1569 of 2025 for serving personnel serving in the Regular Army, Navy or Air Force to join together to institute a single application is impermissible in terms of Rule 4 (5) of the AFT (Procedure) Rules 2008 and to that extent the said implicit permission granted vide order dated 26.05.2025 for serving personnel of the regular Army, Navy or Air Force to join together to file the OAs service wise has to be reviewed and is recalled.

19. Section 23 of the AFT Act, 2007 provides to the effect:-

“23. Procedure and powers of the Tribunal.—(1) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and **subject to the other provisions of this Act and any rules made thereunder, the Tribunal shall have the power to lay down and regulate its own procedure including the fixing of place and time of its inquiry and deciding whether to sit in public or in camera.**

(2) The Tribunal shall decide every application made to it as expeditiously as possible after a perusal of documents, affidavits and written representations and after hearing such oral arguments as may be advanced:

Provided that where the Tribunal deems it necessary, for reasons to be recorded in writing, it may allow oral evidence to be adduced.

(3) No adjournment shall be granted by the Tribunal without recording the reasons justifying the grant of such adjournment and cost shall be awarded, if a party requests for adjournment more than twice.”

Thus, the Tribunal has the power to lay down and regulate its own procedure.

20. Furthermore, in terms of Rule 25 of the Armed Forces Tribunal (Procedure) Rules 2008 provides as follows:-

“25. Powers of the Tribunal with regard to certain orders and directions.— Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders or give such directions as may

be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.”

Thus, the inherent powers of the Tribunal to make such orders or to give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice are protected and rather Rule 25 of the said AFT (Procedure) Rules, 2008 commences with a *non obstante* clause ‘Nothing in these rules shall be deemed to limit or otherwise’ to that effect.

21. Thus, for the ease of adjudication and assessment of facts, it is considered essential that the applications are filed in terms of order dated 26.05.2025 by the **retired SSCOs** of the Indian Army, Indian Navy and Indian Air Force **separately service wise, and furthermore also separately on the basis of the duration of service i.e. up to 10 years, up to 12 years and up to 14 years.**

22. A submission was made by the applicant that the separate filing of OAs by each of the serving officers would result into duplication of filings and paperwork and would result into unnecessary expense with similarly situated serving personnel of the Armed forces having to litigate seeking a similar relief for a similar issue. In relation to the

same, as observed hereinabove in terms of the embargo in Rule 4 (5) of the AFT (Procedure) Rules 2008, **more than one serving personnel cannot file an application to seek redressal and the serving personnel cannot join together to institute the OA to seek redressal on a similar cause of action.**


23. However, in the interest of justice, where the prayers made by the **serving personnel only relate to service matters agitated in terms of Section 14 of the Armed Forces Tribunal Act, 2007**, we consider it appropriate that the matter be placed before the Hon'ble the Chairperson for consideration of amendment of the embargo in Rule 4 (5) of the AFT (Procedure) Rules 2008, for more than one serving officer of the Regular Armed Force, to institute the application to seek redressal before the Armed Forces Tribunal with the rider that even in such cases the applications under Section 14 of the AFT Act, 2007 may be filed only by serving personnel of each of the three wings of the Armed Forces separately.

24. The RA 21/2025 is thus disposed of accordingly.

Pronounced in the Open Court on 21 day of August, 2025.



[REAR ADMIRAL DHIREN VIG]
MEMBER (A)



[JUSTICE ANU MALHOTRA]
MEMBER (J)

AP