

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

B.

OA 2137/2021 WITH MA 1210/2023

Maj Shambhavi Singh (Retd)	.....	Applicant
Versus		
Union of India & Ors.	.....	Respondents
For Applicant	:	Mr. S S Pandey, Advocate
For Respondents	:	Gp Capt Karan Singh Bhati, Sr. CGSC

WITH

C.

OA 1372/2021

Ex Lt Col Ravneet	.....	Applicant
Versus		
Union of India & Ors.	.....	Respondents
For Applicant	:	Mr. S S Pandey, Advocate
For Respondents	:	Mr. Neeraj, Sr CGSC

WITH

D.

OA 1452/2021 WITH MA 2182/2022

Lt Col Dahiya Ritu Mohindersingh (Retd)	.....	Applicant
Versus		
Union of India & Ors.	.....	Respondents
For Applicant	:	Mr. S S Pandey, Advocate
For Respondents	:	Ms. Jyotsna Kaushik, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER
29.05.2025

Vide our detailed order of even date; we have dismissed the main OA No.2137/2021. Faced with this situation, learned counsel for the applicant makes an oral prayer for grant of leave for impugning the order to the Hon'ble

Supreme Court in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007.

2. After hearing learned counsel for the applicant and going through our order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order, therefore prayer for grant of leave to appeal stands dismissed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

/PS/

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OA 2137/2021

Maj Shambhavi Singh (Retd) ... Applicant
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For Applicant : Mr. S.S. Pandey, Advocate
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For Applicant : Mr. S.S. Pandey, Advocate
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WITH

OA 1452/2021

Lt Col Dahiya Ritu Mohindersingh (Retd.) ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. S.S. Pandey, Advocate
For Respondents : Ms. Jyotsna Kaushik, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

Noting that the aforesaid three matters listed before us as 'Tagged Matters' for adjudication involve similar questions of law and facts to be considered, we treat OA 2137/2021 titled *Maj Shambhavi Singh (Retd.) v. Union of India & Ors.* as a 'Lead Matter' for the purpose of adjudication in the instant batch of cases.

OA 2137/2021
Maj Shambhavi Singh (Retd) & Ors.

2. Invoking the jurisdiction of this Tribunal under Section 14, the applicant who is an officer in Indian Army has sought following reliefs:

(a) Call for the records based on which the Respondents have opted not to reply to the request of the Applicant vide letters dated 24.04.2020, 21.09.2020, 08.06.2021 and reinstatement in service and grant of Permanent Commission and thereafter quash all such orders.

(b) Direct the Respondents to reconsider the case of the Applicant for PC after reinstating her in service as per the amended by policy letter dated 16.07.2020 pursuant to judgment dated 17.02.2020 in Civil Appeal Nos. 9367-9369 of 2011 and grant her PC after reinstating her in service with all consequential benefits including maintaining the same seniority which the Applicant had at the time of release.

(c) Alternatively, allow Applicant to be reinstated in service and thereafter allow her to continue till 20 years of service for qualifying for pensionable service in terms of the directions of the Hon'ble Supreme Court Judgment dated 17.02.2020 in Civil Appeals 9367-9369 of 2011.

(d) Issue such order/direction as may be deemed appropriate in the facts and circumstances of the case.

Brief Facts of the Case

3. The Applicant was commissioned in the Indian Army through Women Special Entry Scheme (Officers) on 17.09.2004, in Corps of Engineers for a period of 5 years initially and has applied for release from service on completion of 5 years. However, she later applied for cancellation and thus, opted to be governed by Revised terms and conditions of service i.e. 10+4. Later, on completion of 10 years of service, she was granted an extension of 4 years up to 16.09.2018 by No.5 SB held in 2014.

4. During the extension period, the Respondents challenged the judgment of Delhi High Court in *Babita Puniya (supra)* before the Hon'ble Supreme Court, during the pendency of which, admittedly, applicant filed an application seeking release from service, on completion of 14 years of service, which was approved and the applicant finally retired from service on 16.09.2018, after serving for 14 years.

5. Subsequently, post judgment of Hon'ble Supreme Court in *Secy, Ministry of Defence v. Babita Puniya* [2020 INSC 198], the applicant addressed applications dated 24.04.2020, 21.09.2020 and 08.06.2021 seeking reinstatement in service on the ground that she is entitled for reinstatement in line with the judgment of Apex Court in *Babita Puniya (supra)*. However, the same was rejected.

6. Faced with the aforesaid rejection, the applicant approached this Tribunal seeking reinstatement in service or in alternative, grant service pension by considering her to have completed 20 years of service for grant of service pension in terms of directions issued by the Hon'ble Supreme Court in the case of *Babita Punia (supra)*.

Submissions by learned counsel for Applicant

7. It is the case of the applicant that the act of the Respondents in refusing to consider the applicant for grant of PC and

reinstatement in service is wrong, arbitrary and perverse and is grossly violative of Articles 14, 16, 19 and 21 of the Constitution..

8. It is submitted by the applicant that the actions of the Respondents of selectively depriving her the chance of PC by way of discriminatory policy dated 25.09.2019 which gave the option for PC to officers whose service was less than 14 years and the applicant and the similarly placed officers were/was in direct violation/contravention of the judgment of Delhi High Court dated 12.03.2010 in Babita Puniya & ors v. Union of India & Ors [W.P. (C) 1597/2003].

9. It is asserted by the Applicant that the as per the directions of the Delhi High Court in aforesaid case, the Respondents were directed to consider all officers who were commissioned prior to 25.05.2006 for PC, and that the applicant was covered by the said judgment, but the Respondents for their own breach to implement the judgment dated 12.03.2010 have created a situation by way of policy dated 25.02.2019 which forces the applicant to opt for release in her extended provisional period of engagement beyond 14 years not being given option of PC to SSC women officers whose service was beyond 14 years.

10. Learned counsel submits that a policy dated 11.06.2013 was brought in by the Respondents which clearly excluded the WSES(O)-24 except JAG and AEC Branch SSC women officers from grant of PC, while on other hand, the Applicant and other

WSES(O)-23 SSC women officers except JAG and AEC Branch were given option of extension of 4 years till March 2018, which makes it clearly evident that the actions of the Respondents were discriminatory and the applicant and other similarly placed officers were left out from the ambit of grant of PC.

11. It is contended by the applicant that when the policy dated 25.02.2019 was issued by the Respondents, it selectively left the Applicant and other similarly placed officers who had served beyond 14 years for grant of PC, with the organization cannot be permitted to take advantage of its own deliberate inaction, fault and wrong by placing the applicant in disadvantageous position for claiming the benefit of pensionary service as otherwise applicable to the similarly placed officers post policy circular dated 25.02.2019.

12. Learned counsel submits that the Respondents have acted in a grossly unfair and arbitrary manner, without having regard to relevant facts and circumstances concerning the Applicant and have refused to release the benefits to which she is entitled by the directions of the Delhi High Court and the Hon'ble Supreme Court.

Submissions on behalf of Respondents

13. Per contra, it is submitted by the Respondents that after the Judgment of the Hon'ble Supreme Court dated 17.02.2020 in *Babita Puniya (supra)*, the applicant sent applications

dated 24.04.2020, 21.09.2020 and 08.06.2021 seeking reinstatement in service, wherein it with respect to the first two applications, she was duly informed vide HQ letter no. PC to B/32210/WOs-Extn/AG/PS-2(a) dated 10.11.2020 that her request for reinstatement in service has been duly examined with due consideration by the competent authority but has not been accepted being not eligible.

14. It is the case of the Respondents that despite having been in service, with no plans for her release in view of the directions of the Hon'ble Supreme Court, applicant while seeking release, had submitted an undertaking that she will not claim any benefit accruing out of the court judgment, as and when the SLP is finally decided. Thus, the request made by the petitioner in her application for her reinstatement in service and consideration for PC was rejected by the competent authority.

15. It is further submitted by the Respondents that the Applicant's averments are an afterthought in an effort to interpret the circumstances in her favour to get benefits which have been granted by the Hon'ble Supreme Court to deserving/eligible Women Officers. It is submitted that the applicant willingly sought release from service on completion of 14 years of service, voluntarily and at her request. Therefore, she cannot claim to have sought release against her wishes.

Consideration

16. We have heard learned counsels for the parties, and have placed all the documents on record. On a perusal of the documents, we find that the limited issue which requires our consideration herein is whether the applicant is entitled for a reinstatement or service pension in view of the directions given by the Hon'ble Supreme Court in *Secy, Ministry of Defence v. Babita Puniya* [2020 INSC 198]?

17. Before entering into the legal issue at hand, we find it prudent to have an analytical glance at the factual matrix involved, from where we find that the applicant was commissioned for short service under the earlier terms governed by SAI 1/S/92, wherein the service period was (5+5+4) years, but the same was subsequently amended to (10+4) years vide GoI letter no B/32313/PC/AG/PS-2(a)/921/D(AG) dated 20.07.2006. Subsequently, she was again considered for an extension of the last leg of 4 years until 16.09.2018, and she was held to be approved by No. 5 SB held in 2014.

18. Furthermore, during the pendency of the proceedings before the Hon'ble Supreme Court in *Babita Puniya* (supra), the applicant was supposed to be granted extension of tenure beyond 14 years of service wef 16.09.2018 along with her batch of WS-24 Course till final adjudication of the *Babita Puniya*

(supra) pending before the Apex Court, as can be ascertained from the reproduced letter dated 17.09.2018 herein:

*Military Secretary's Branch/MS-7B
IHQ of MoD (Army)
New Delhi-110011*

05529/SSC(Women T/NT)-24/MS-7B

17 Sep 2018

*Headquarters
Southern Command (MS)
Eastern Command (MS)
South Western Command (MS)
Western Command (MS)
Central Command (MS)
Northern Command (MS)*

*GRANT OF EXTENSION OF TENURE
WOMEN OFFICERS OF WS-24 COURSE (DOC: 17 SEP 2004)*

- 1. Refer GoI, MoD letter No B/32210/WOs-Extn/PS-2(a)/543/D(AG-II)/2018 dt 17 Sep 2018*
- 2. 34 officers with details at appendix to this letter have completed their 14 years of service on 16 Sep 2018 (AN). These officers are hereby granted extension of tenure beyond 14 years of service wef 14 Sep 2018 till final adjudication of the Civil Appeal No 9367-9369/2011 titled Secy Ministry of Defence Vs. Babita Puniya and Others regarding grant of Permanent Commission to Women Short Service Commission Officers in Army.*
- 3. The officers may be informed accordingly.*

*Sd/-
Atul Diwakar
Lt Col
AMS-7B
For Military Secretary*

19. However, it is an admitted position that she sought release from service vide an application dated 08.08.2018 on completion of her 4 years of extended service, even before her extension beyond 14 years of service could be extended further. The aforesaid application dated 08.08.2018 is produced herein:

00994/M/05/Pers/08 Aug
To: Military Secretary Branch/MS-7B
IHQ of MoD (Army)
New Delhi-110011

08 Aug 2018

SEEKING RELEASE ON COMPLETION OF 14 YRS OF SERVICE

Sir,

1. I, WS 0094M Maj Shambhavi Singh was commissioned on 17 Sept 2004 in the Corps of Engrs and am presently posted with 14 Engr Regt.
2. I would like to submit that I will be completing 14 years of service in the organization on 16 Sept 2018. I do not wish to continue in service beyond 16 Sept 2018 having completed my contractual period of 14 years.
3. In view of the above, I may be released from the service on completion of 14 years please.

Thanking you

Yours sincerely

Sd/-

(Maj Shambhavi Singh)

WS 0094M

08 Aug 2018

RECOMMENDATION OF IO

RECOMMENDED / NOT RECOMMENDED

20. Moving further on the factual matrix, we note that the applicant, alongside the letter for unwillingness to continue in service, has signed an undertaking dated 08.08.2018, which is reproduced herein as under:

UNDERTAKING

I, WS-00994MY Rank Major Name Shambhavi Singh Arm/Ser Engrs of Unit 14 Engr Regt resident of Gwalior do solemnly declare and affirm as follows:-

(a) That, I am a Women Special Entry Scheme (Officers)/Short Service Commissioned Women Officer of the Indian Army and completed the laid down fourteen years of Short Service Commission on 16 Sept 2018 entitling me for release from the service as per the terms and conditions of Short Service.

(b) ~~That, I continued to serve in the Army beyond fourteen years by virtue of provisional extension of service granted consequent to order dated _____ of Hon'ble Supreme Court in _____.~~

(c) That, having thus served for a total of 14 years including on provisional extension, I no longer desire to continue in service and accordingly as submitted an application for release from service dated 08 Aug 2018, voluntarily and without any threat, inducement and promise.

(d) That, I am also aware that by submitting the said application for release, I voluntarily gave up any right or benefit if so to accrue based on the final determination by the Hon'ble Supreme Court in civil Appeal No 9367-9369/2011 Secy MoD Vs Babita Puniya regarding grant of Permanent Commission to Women Short Service Commission Officers in Army and connected cases and will be ineligible to claim any such benefits at any later point of time.

(e) That, I hereby undertake to withdraw impleadment application/writ petition/OA in relation to the Civil Appeal No. 9367-9369/2011 filed by me against UoI, before release from the service and will not pursue the same in future.

Sd/-

(Offr

Signature)

WS00994

Maj Shambhavi Singh

08 Aug 2018

Mob No

Witness

1. Sign : (SATISH SACHDEVA), Deputy Director, MS-7A

2. Sign : (PK SINGH), Lt Col AMS-8B

08 Aug 2018

21. From a cursory look at the aforesaid affidavit, it is clear that applicant was aware of the proceedings pending before the Supreme Court in the case of SLP (C) No. 1752-1754/2011 titled *Secy, Ministry of Defence v. Babita Puniya*, and that she has taken a conscious, voluntary and independent decision to waive any claim of benefit that might arise as a consequence of the Supreme Court judgement in the aforesaid case.

22. The aforesaid application for the release of the applicant was approved by the Competent Authority vide MS Branch

OA 2137/2021

Maj Shambhavi Singh (Retd) & Ors.

letter No.05529/00994/Release/14-Y/MS-7B dated 05.09.2018.

Relevant paras of the aforesaid letter are reproduced herein as under:

*Military Secretary's Branch/MS 7B
IHQ of MoD (Army)
New Delhi - 110011*

05529/00994/Release/14Y/MS-7B 05 Sep 2018

*RELEASE: WS-00994M MAJ SHAMBHAVI, ENGRS
OF WSES(O)-24 COURSE COMPLETING 14 YEARS OF SERVICE
ON 16 SEP 2018 (AN) (DOC: 17 SEP 2004)*

- 1. Refer this HQ letter No 05529/Extr/4Y/MS-7B dated 13 Oct 2014.*
- 2. WS-00994M Maj Shambhavi Singh, Engrs who is due to complete her extended period of 04 years of SSC service, will be relieved of her duties wef 16 Sep 2018 (AN)*
- 3. The officer will carry a reserve liability for a period of five years from the date of release or upto the age of 37 years, whichever is earlier.*
- 4. The officer is permitted to avail balance of leave entitled to her for the year/ block. Terminal leave of 28 days is also entitled to the officer, which must be availed at last i.e. after completion of all types of leave or wef the following day the officer is relieved of her duties.*
- 5. CO/OC unit is requested to forward only one copy of the following documents (as per the detailed instructions enclosed) to Integrated HQ of MoD (Army), MS Branch/MS-7B:-*
 - (a) Undertaking by the Officer for Reserve Liability for a period of five years duly countersigned by the CO/OC by 16 Sep 2018.*
 - (b) Release Medical Board (AFMSF-18) proceedings by 25 Sep 2018.*
 - (c) Part II order will be published on completion of Terminal Leave (with struck off strength late) for the publication of release Gazette notification. Part II order should specify the SUBSTANTIVE and ACTING RANK of the officer. Part II order should reach MS-7B within 20 days of the officer being SOS.*
- 6. The officer may please be informed accordingly.*

*Sd/-
(Atul Diwarkar)*

23. From the foregoing analysis, it emerges that the applicant was granted an extension of service by the Respondents in view of the protection afforded to her by the Hon'ble Supreme Court. However, the applicant, of her own volition, chose to waive the benefit of such protection and proceeded to retire from service. It was only subsequently, upon observing the benefits granted by the Hon'ble Supreme Court to similarly situated individuals, that the applicant reasserted her willingness to rejoin the Army for consideration under the Permanent Commission scheme. In doing so, she seeks to reclaim a right which she had consciously and voluntarily relinquished earlier.

24. With this background factual analysis, we now proceed to examine the case of the applicant to ascertain whether she will be entitled to relief by virtue of the fact that she took retirement due to her personal reasons even when she was granted protection on her retirement by the Apex Court ?

25. At this point, we find it pertinent to refer to directions given by the Hon'ble Supreme Court in *Secy, Ministry of Defence v. Babita Puniya (supra)*, which is produced herein:

H. Directions

69. We accordingly take on record the statement of policy placed on the record in these proceedings by the Union Government in the form of the letter dated 25 February 2019 and issue the following directions:

(i) The policy decision which has been taken by the Union Government allowing for the grant of PCs to SSC women officers in all the ten streams where women have been granted SSC in the Indian Army is accepted subject to the following:

(a) All serving women officers on SSC shall be considered for the grant of PCs irrespective of any of them having crossed fourteen years or, as the case may be, twenty years of service;

(b) The option shall be granted to all women presently in service as SSC officers;

(c) Women officers on SSC with more than fourteen years of service who do not opt for being considered for the grant of the PCs will be entitled to continue in service until they attain twenty years of pensionable service;

(d) As a one-time measure, the benefit of continuing in service until the attainment of pensionable service shall also apply to all the existing SSC officers with more than fourteen years of service who are not appointed on PC;

(e) The expression "in various staff appointments only" in para 5 and "on staff appointments only" in para 6 shall not be enforced;

(f) SSC women officers with over twenty years of service who are not granted PC shall retire on pension in terms of the policy decision; and

(g) At the stage of opting for the grant of PC, all the choices for specialisation shall be available to women officers on the same terms as for the male SSC officers. Women SSC officers shall be entitled to exercise their options for being considered for the grant of PCs on the same terms as their male counterparts.

(ii) We affirm the clarification which has been issued in subpara (i) of paragraph 61 of the impugned judgment and order of the Delhi High Court; and

(iii) SSC women officers who are granted PC in pursuance of the above directions will be entitled to all consequential benefits including promotion and financial benefits. However, these benefits would be made available to those officers in service or those who had moved the Delhi High Court by filing the Writ Petitions and those who had retired during the course of the pendency of the proceedings.

26. A perusal of the directions issued by the Hon'ble Supreme Court in its judgment in *Babita Puniya* (supra) clearly indicates that, by virtue of being in service in terms of Para 69(i)(a), and in

light of the protection extended to her by the Hon'ble Supreme Court, the applicant would have been entitled to be considered for the grant of Permanent Commission, or, in the alternative, would have completed twenty years of service, thereby becoming eligible for the grant of service pension. However, the applicant opted to seek retirement, of her own volition, even when granted extension to continue in service and on purely personal grounds. This voluntary decision amounted to a conscious waiver of her right to claim the benefit of the judgment rendered in *Babita Puniya* (supra). It is evident, therefore, that the applicant herself, by undertaking that she will not seek any benefits arising out of the aforesaid judgment, cannot come back later to seek the same benefits on the ground of parity.

27. We find it pertinent to place reliance on our observations in *Lt Col Anupama Munshi & Ors v. Union of India & Ors* [OA 599/2021: AFT PB] involving a similar factual matrix, relevant paragraphs of which are reproduced herein as under :

48. *From a detailed look at the aforesaid directions of the judgment of Hon'ble Supreme Court, it is well clear that by virtue of being a petitioner before the Delhi High Court, in line with Para 69(iii), the applicant would have been entitled for all the benefits granted by Para 69(i), save from the fact that the applicant had moved the Delhi High Court by filing the writ petition, and secondly, who had retired during the pendency of the case before the Hon'ble Supreme Court.*

49. *However, the instant case in hand is different from the Babita Puniya judgement on the factual matrix, wherein the applicant was earlier granted benefit of the aforesaid directions in the form of reinstatement in service, and by the time Babita Puniya would have been decided, she would have been considered for grant of Permanent Commission, or alternatively, would have completed 20 years in service, and thus, would have been eligible for grant of service pension,*

but the applicant chose to take premature retirement as her voluntary decision, that too on purely personal grounds, waiving off her right to seek benefit arising out of the judgment of Apex Court in Babita Puniya (supra), and not that she retired upon completion of her terms of engagement.

50. With respect to the reliance placed by the applicant on two important judgements of Wg Cdr A U Tayyaba and Ors v. Union of India & Ors. [2024 INSC 311] and Cdr Jaya Kapoor (Retd.) & ors. v. Union of India & Ors. [TA 01/2022 {W.P.(C) No.8275/2010 Delhi HC}], we find the relief granted by the Apex Court to the appellants in Wg Cdr A U Tayyaba (supra) and by this Tribunal to the applicants in Cdr Jaya Kapoor (supra) is based on different factual context.

51. While in Wg Cdr AU Tayyaba (supra), appellants retired from the service on completion of their terms of engagement but approached the Delhi High Court, immediately after the judgement of Delhi High Court dated 12.03.2010 in Babita Puniya v. Secy, Ministry of Defence (supra) challenging the manner of implementation by Indian Air Force, and admittedly, when the decision was rendered by the Supreme Court in Secy, Ministry of Defence v. Babita Puniya (supra) on 17.03.2020, appellants were before the Delhi High Court. Similarly, in the case of Cdr Jaya Kapoor (supra), applicants had retired on completion of terms of engagement and were before the Delhi High Court on the date of judgement of Hon'ble Supreme Court in Babita Puniya (supra).

52. In the instant case, while the applicant was a petitioner before the Delhi High Court and respondent before the Hon'ble Supreme Court in Babita Puniya (supra), she chose to prematurely retire from service on personal grounds, waiving off her rights to claim any benefit arising out of aforesaid adjudication, and thus, instant case is different from the law laid down in Wg Cdr AU Tayyaba (supra), and Cdr Jaya Kapoor (supra).

28. Therefore, in view of the aforesaid analysis, we are of the considered view that the position adopted by this Tribunal — that an officer who, having been eligible for consideration for the grant of Permanent Commission, voluntarily relinquishes such a right, cannot subsequently claim the benefit thereof on account of a later legal development — is legally sound and well-founded. Such an officer, having consciously elected to forego the entitlement, is bound by the principle of promissory estoppel and

cannot be permitted to approbate and reprobate. We find no infirmity in the reasoning and see no cause to take a different view.

29. Before parting, we must clearly specify that we have extensively considered the differences in factual context of all three OAs tagged herein, and we find that none of the differences change our aforesaid conclusive opinion on the material facts and circumstances in either of the OAs.

30. Hence, the aforesaid OAs including the two tagged OAs namely OA 1372/2021 & OA 1452/2021 fail on merits, and thus, being dismissed as devoid of merit.

31. No order as to costs.

32. Pending miscellaneous application, if any, stands disposed of.

Pronounced in the open Court on 29th day of May, 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Akc/ps