

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

**OA 2702/2021 with MA 1603/2023, MA 2851/2021 &
MA 880/2023**

Lt Col CJG Scott (Retd) Applicant

VERSUS

Union of India and Ors. Respondents

For Applicant : Mr. Anil Srivastava, Advocate
For Respondents: Mr. Karan Singh Bhati, Sr. CGSC
Maj Satvik Grover, OIC, Legal Cell

CORAM

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

ORDER

The applicant IC-27674F Lt Col CJG Scott (Retd) vide the
present OA makes the following prayers:-

***"8A. Direct the Respondents to grant
the rank Col (TS) w.e.f. 16 Dec 2004
and consequential pension on his
retirement w.e.f. 31 March 2005.***

***B. The Applicant be deemed to have
superannuated w.e.f. 31 March 2005***

and the period of service from 31 March 2004 to 31 March 2005 be taken as a notional service for all purposes and consequential relief emanating there from.

C. The Applicant be granted arrears of the pensionary benefits with 9% interest thereon in a time bound manner.

D. To pass any such other and further order or orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice and in the facts and circumstances of the case."

FACTS ON RECORD

2. The applicant was commissioned in the Indian Army in the Corps of Signals on 17.06.1993 and after completion of 21 years of commissioned service, the applicant was promoted to the rank of Lt Col (TS) on 17.06.1994. The applicant retired in the rank of Lt Col (TS) after attaining the age of superannuation i.e. 53 years on 31.03.2004 after having completed 30 years and 09 months of service. The applicant was subsequently re-employed from 09.05.2004 to 02.03.2007.

CONTENTIONS OF THE APPLICANT

3. The applicant's prayers are premised on the submission that the Ajai Vikram Singh Committee (AVSC) prescribed the grant of Time Scale Col's rank after completion of 26 years of service which recommendations were implemented wef 16/12/2004, and the applicant submits that vide judgment dated 02/05/2013 in TA 385 of 2009, TA 386 of 2009 and OA 99 of 2009 in the cases of **Gp Capt Atul Shukla, Group Captain V. J. Narain and Group Captain Virendar Gigo vs Union of India and others** respectively, the AFT (Principal Bench), New Delhi, set aside the notification dated 12/06/2009 of the respondents to the extent that it laid down the ages of retirement for the Group Captain (TS) at the age of 54 years and it was directed that all persons who were in rank of Group Captain (TS) would be entitled to continue up to the age of 57 years and furthermore, the pension and other emoluments were directed to be worked out with directions to

the respondents to those petitioners to pay the arrears of salary till the petitioners attained the age of 57 years.

4. The applicant places reliance on the aspect that the said judgment had been upheld, by the Hon'ble Supreme Court vide verdict dated 24/09/2014 in Civil Appeal Nos 4717-4719 of 2013 in **Union of India and others** versus **Atul Shukla etc.** and other connected civil appeals with it having been observed by the Hon'ble Supreme Court vide paragraphs 37 and 38 thereof to the effect:-

"37. On the material placed before us and having regard to the rival assertions made by the parties in their respective affidavits the difference in employability of Group Captains (TS) is not borne out to justify the classification made by the Government. It is evident from the particulars given by the respondents that several Group Captains (TS) have held appointments which are also held by Group Captains (Select). If that be so, the difference in the employability of Time Scale officers vis-a-vis select officers appears to be more illusory than real. There does not appear to be any hard and fast rule on the question of deployment or employability of Group Captains (TS) or Group Captains (Select) for that matter. The Air HQ can, depending upon its perception, order deployment and post any officer found suitable for the job. Deployment remains an administrative matter and unless the same involves any reduction in pay, allowances or other benefits or reduction in rank or status of an officer legally impermissible, such deployment

remains an administrative prerogative of the competent authority.

38. Suffice it to say that the basis for classification in question for purposes of age of superannuation which the appellant has projected is much too tenuous to be accepted as a valid basis for giving to the Time Scale Officers a treatment different from the one given to the Select Officers. We are also of the view that concerns arising from a parity in the retirement age of Time Scale and Select Officers too are more perceptual than real. At any rate, such concerns remain to be substantiated on the basis of any empirical data. The upshot of the above discussion is that the classification made by the Government of India for purposes of different retirement age for Time Scale Officers and Select Officers does not stand scrutiny on the touchstone of Articles 14 and 16 of the Constitution as rightly held by the Tribunal."

5. The applicant submits that he be deemed to have superannuated wef 31.03.2005 and the period of service from 31.03.2004 to 31.03.2005 be taken as a notional service for all purposes and consequential relief emanating therefrom by directing the respondents to grant the rank of Col TS wef 16/12/2004 and consequential pension on his retirement wef 31/3/2005.

6. Reliance was also placed on behalf of the applicant in support of contentions raised by the applicant on the verdict

of the Hon'ble Supreme Court dated 22/11/2018 in **CAPT (IN) Gian Chand Saini (Retd) etc** versus **Union of India and Anr** in which case those petitioners who had retired on 31.08.2014, 30.09.2014 and 31.07.2014 who had been promoted as Captain (TS) in the years 2008 and 2011, and were put on the retirement list with dates of retirement as 31.08.2014, 30.09.2014 and 31.07.2014 were vide orders dated 06.05.2015 and 18.05.2015 of the AFT, PB, New Delhi directed to be reinstated within three months and they were notionally reinstated and deemed to be retiring on attaining the age of superannuation at 56 years. Those appellants were also held entitled to pay and allowances for the intervening period when they were out of service till the deemed period of superannuation. The applicant has thus submitted that he would have to be deemed to have superannuated at the age of 54 years as applicable in the case of an officer of the rank of Lt Colonel (SG).

7. The averments made in the OA also placed reliance on the order dated 21.09.2021 of the Hon'ble AFT (RB) Chennai

in OA 268 of 2018 in the case of **Ex Cdr SP Illangovan** versus **Union of India and ors** to submit to the effect that the case of the applicant was identical to that of **Ex Cdr SP Illangovan** who had taken premature retirement on 01.04.1998 on having not been considered for promotion to the rank of Captain after rendering 29 years and 23 days service and in terms of the AVS Committee report, as the Navy promulgated the policy to promote all naval officers to the rank of Captain who did not get promotion to the rank of Captain (SG) to the rank of Captain (TS) after 26 years with corresponding increased pension. The applicant in that case was allowed was directed to get the pensionary benefits as applicable to a Captain (TS) with similar reckonable service wef 16/12/2004 with directions to pay that applicant the arrears of pensionary benefits within a period of four months from the date of receipt of the copy of the order failing which the arrears would carry interest at the rate of 8% per annum till the date of actual payment. **However, the learned counsel for the applicant during the hearing on 11.08.2025 fairly submitted that reliance placed on this**

order dated 21.09.2021 in OA 268 of 2018 in *Ex Cdr SP Illangovan* supra) of the Hon'ble AFT Regional Bench, Chennai was no longer pressed.

8. It is essential to observe herein at this stage that vide judgment dated 23.09.2024, the Hon'ble Supreme Court in the Civil Appeal filed by the ***Union of India and others*** vide Diary no 31788 of 2022 to assail the order dated 21.09.2021 in OA 268 of 2018 in the case of ***Ex Cdr SP Illangovan*** (supra), it was observed as under:-

"1. Delay condoned.

2. This Civil Appeal arises out of the judgment and order of the Armed Forces Tribunal, Regional Bench Chennai in O.A. No.268/2018 dated 21.09.2021.

3. Learned Additional Solicitor General has brought to our notice the concerned policy and submitted that the conclusions drawn by the Tribunal are not correct. It has also been submitted that the decision of the Tribunal could have an impact on similar cases that may arise in services under Indian Navy. On the other hand, Mr. Santosh Krishnan, learned counsel appearing on behalf of the respondent submitted though the judgment of the Tribunal is not in detail but the conclusions are correct and can be sustained on the basis of

many clarification/circulars/memos issued by the Government of India from time to time. He has also submitted that the respondent is a 78 years and is presently in the hospital due to some serious ailment.

4. Having considered the appeal in detail and taking a larger perspective of the matter, we are of the opinion that the question of law raised by the learned Additional Solicitor General Ms. Aishwarya Bhati can be kept open for being considered in an appropriate case.

5. The Tribunal has not granted leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007 and we are of the opinion that it will be appropriate in the facts and circumstances of the case to reject the application for grant of leave. **In view of the fact that we have not decided the case on merits, the decision of the Tribunal shall not be treated as a precedent.**

6. Accordingly, the appeal is dismissed.

7. Pending application(s), if any, shall stand disposed of."

(emphasis supplied)

and thus vide judgment dated 23.09.2024 of the Hon'ble Supreme Court in Civil Appeal Diary no 31788 of 2022, it has been observed to the effect that the decision of the Hon'ble AFT (RB) Chennai in OA 268 of 2018 dated 21.09.2021 shall not be treated as a precedent as the question of law raised by

the Union of India was kept open for being considered in an appropriate case.

CONTENTIONS OF THE RESPONDENTS

9. The respondents vide their counter affidavit filed on 06/03/2023 have submitted to the effect that based on the recommendations of Ajai Vikram Singh Committee (AVSC), Govt of India, Ministry of Defence promulgated letter No 18(I)/2004-D(GS-1) dated 21 Dec 2004 (Annexure A-1) laying down policy relating to grant of time based substantive promotions to the rank of Capt, Major, Lt Colonel and Col (Time Scale) after completion of 2, 6, 13 and 26 years of service respectively to reduce the age profile and supersession levels, in the Army and also to improve vertical mobility and promotion to the substantive ranks of the serving officers and the same has no relevance with retired officers. The respondents further submit that serving officers and retired officers are two different entities and cannot be equated for grant of ranks intended to make the Army more efficient. They further submit that the letter no 16(I)/2001-

D(GS-I) dated 21/12/2004 which relates to the restructuring of the officers Cadre of the Army vide Para 11 thereof specifically takes effect from 16/12/2004 and is prospective in nature and as the applicant herein had retired on 31/3/2004, i.e before 16/12/2004, and that he is not eligible for the benefits of the policy dated 21.12.2004.

10. The respondents submit that after promulgation of the AVSC report vide GOI letter dated 21.12.2004, (copy of which has been submitted by the respondents as an Annexure A1 vide MA 1603 of 2023 dated 10.04.2023 filed pursuant to directions dated 03/04/2023, in as much as the annexures to the counter affidavit had not been filed with the counter affidavit and were vide order dated 03.04.2023 permitted to be filed vide an affidavit of their authorized representative of the respondents before the next date of hearing which had been fixed for 20.04.2023.) the rank of LT Col (TS) was abolished.

11. The respondents further submit that however, the interest of Lt Col (Select) and Lt Col (TS) **who were in service**

on the date of promulgation of the policy dated 21/12/2004 were catered to and vide para 4 of the said letter, it was stated to the effect:-

*"4. Those **serving** in the rank of Lieutenant Colonel (Time Scale) will now be eligible for grant of the substantive rank of Lieutenant Colonel. The existing rank of Lieutenant Colonel (Selection) shall remain applicable till the existing Lieutenant Colonels (Selection) are either promoted to the rank of Colonel (Selection) or Colonel (Time Scale) or are retired. No further consideration for promotion to the rank of Lieutenant Colonel (Selection) shall be made after 16 Dec 2004."*

with it having thus been stated therein there that will be no further consideration for promotion to the rank of Lt Col (Selection) made after 16/12/2004. The respondents thus submit that the said policy dated 21/12/2004 is not applicable to the officers who retired on 15th December 2004 or before.

12. The respondents further submit that the reliance that has been placed by the applicant on the case of **Atul Shukla and others** versus **Union of India and others** in TA 385,

386 and 99 of 2009 decided by the AFT (Principal Bench), New Delhi vide order dated 02.03.2013 is misplaced.

13. It is submitted by the respondents that the issue in that case was regarding the anomaly in the retirement age of officers of the same branch i.e. the ground duty branch of the Air Force in the rank of Group Captain (Select) and Group Captain (Time Scale) where an officer in the rank of Group Captain (Select) were retiring at the age of 57 years whereas those of Group Captain (Time Scale) were retiring at the age of 54 years, though the officers in the rank of Colonel (Select) and Colonel of the equivalent same branch of the Indian Army, namely the Judge Advocate General's Department, Army Education Corps, Military etc were retiring at the age of 57 years without any anomaly and thus vide order dated 02/05/2013 in **Atul Shukla and other** (supra) had thus observed to the effect vide paragraph 30 of the said order to the effect:-

"30. Therefore, we are of the considerate view that this distinction which is sought to be made has no legs to stand. Consequently, we allow this petition and

set aside the notification dated 12.06.2009 to the extent which lays down the ages of retirement for the Gp Capt(TS) at the age of 54 years and direct that all the persons who are in the rank of Gp Capt(TS) will be entitled to continue upto the age of 57 years. The order of the petitioner by which he has been sought to be retired at the age of 54 years dated 5.12.2008 is quashed and petitioner is entitled to all benefits upto the age of 57 years. His pension and other emoluments should be worked out and he should be also entitled to arrears of the salary till he attains the age of 57 years."

14. The respondents further submit that the observations of the Hon'ble Supreme Court in CA Nos 4717-4719 of 2013 in the appeal filed by the Union of India against the order dated 02/05/2013 of the AFT PB, New Delhi in in TA 385 of 2009, TA 386 of 2009 and OA 99 of 2009 whereby the classification made by the Government of India for purpose of different retirement age for time scale officers and select officers was set aside related to the induction of rank of Col (TS) and equivalent due to implementation of the recommendations of the AVSC **only for serving personnel effective from 16/12/2004** and are not applicable to those who had retired prior to the effective date of the policy dated 21/12/2004 i.e. 16/12/2004.

15. The respondents reiterate that the retirement age of Army officers varies with their arms/ services and rank held at the time of retirement and at the time of retirement of the applicant in terms of the policy invoked vide GOI MOD Letter no F(13)/98(AG) dated 03.09.1998, the age of superannuation of Lt Col (TS) rank of Signal Corps was 53 years. The respondents further submit that the said revised age of retirement as per the policy letter dated 03.09.1998 no F.14(3)/98/D(AG) in relation to the Armoured Corps, Artillery, AD Artillery, Infantry. Engineers Signals, Army Service Corps, Army Ordnance Corps, Electrical and Mechanical Engineers, Pioneer Corps and Intelligence Corps is as under:-

<i>I</i>	<i>Up to and including the rank of Major</i>	<i>52/54* years</i>
<i>II</i>	<i>Lt. Colonel (Time Scale)</i>	<i>53/54* years</i>
<i>III</i>	<i>Lt. Colonel. (Selection)</i>	<i>54/57@ years</i>
<i>IV</i>	<i>Colonel</i>	<i>54/57@ years</i>
<i>V</i>	<i>Brigadier</i>	<i>56 years</i>
<i>VI</i>	<i>Major General-</i>	<i>58 years</i>
<i>VII</i>	<i>Lt. General</i>	<i>60 years</i>

16. The respondents thus submit that the claim of the applicant seeking a notional promotion to the rank of Col (TS)

and revision of pension along with arrears with effect from 31.03.2005 in terms of the policy letter dated 21/12/2004 is virtually seeking retrospective application of a well thought prospective policy promulgated and based on the recommendations of the AVSC Committee constituted for the very purpose. The respondents submit that the claim made by the applicant merely on the basis of change in organizational structure and cadre review which has taken place after his retirement is not legally tenable.

17. *Inter alia*, the respondents have submitted to the effect that the request of a retired officer for those benefits of cadre review on the basis of the AVSC report which was promulgated after his retirement has been considered by the AFT (Principal Bench), New Delhi in the case of **Lt Col Dhiresh Kumar Kulshrestha (Retd)** versus **Union of India and others** in OA 1109 of 2016, and the said OA was dismissed with observations in para 7 of the said order to the effect:-

"7. We have given due consideration to the submissions made by the learned counsel

for the applicant and the respondents. It is appreciated that the applicant (D.K. Kulshreshta), put in over 32 years of valuable service in the Army upto 31.12.2000. **But the AVSC was constituted to deal with issues related to restructuring the Army and improving the terms of service of the cadre of serving officers. To that extent, there was no brief to the AVSC related to providing benefits or improving pensions for retired personnel. There is a clear distinction between serving and retired personnel. The date established by Government of India for implementation of the AVSC recommendation, i.e., 16.12.2004 has important applicability in that regard. Refusal to grant promotions and related pay and pensionary benefits to retired officers who retired prior to 16.12.2004 in no way violates the provisions of Article 14 of the Constitution in respect of personnel who had already retired by that date.** AFT Mumbai order dated 26.02.2013 in the case of Lt. Col. K.K. Khanna is also relevant in this regard.”

18. The respondents have further submitted that 176 pre AVSC i.e. pre 16/12/2004 retiree officers had filed the WP (C) No 942 of 2019 titled **Sushil Kumar Jain (Retired) and 175 petitioners** versus **Union of India and others** for grant of the benefits of the GOI letter dated 21/12/2004 and vide order dated 20th February 2020 the Hon'ble Supreme Court has observed vide paragraphs 3 to 7 thereof to the effect:-

"3. The Presidential sanction dated 21 December 2004, which was implemented from 16 December 2004, contemplated for acceleration in promotion in respect of armed forces officers by reducing the service length for various promotions. Officers with six years of service were promoted to the rank of Major and officers with thirteen years of service were promoted to the rank of Lieutenant Colonel. Paragraph 11 of the Presidential sanction stipulates that these orders will take effect from 16 December 2004."

4. The petitioners are former personnel of the Indian Army who retired prior to 16 December 2004. Since the orders of the Union of India have taken effect from 16 December 2004, ex facie, they have no application to the petitioners.

5. Mr Sanjay Jain, learned Additional Solicitor General, has placed reliance upon a two judge Bench decision of this Court in *Suchet Singh Yadav v Union of India*. In the above case, a Government Order dated 21 November 1997 granted the benefit of pay scale of Lieutenant Colonel or equivalent to those who became substantive Majors or equivalent before 1 January 1996, upon completion of twenty-one years of commissioned service. The Government Order dated 21 November 1997 was challenged by commissioned officers who retired prior to 1 January 1996, seeking a grant of next higher scale and benefits in accordance with the Government Order dated 21 November 1997. This Court rejected the contention and held that the applicants were not entitled to the grant of benefit of higher pay scale under the Government Order dated 21 November 1997 and those who had retired prior to 1 January 1996 could not claim any benefit. Justice Ashok Bhushan speaking for this Court held thus:

"37. ... present is not a case where there is any discrimination in pensionary benefits of pre-1-1-1996 and post-1-1-1996 retirees. The applicants, base their claims on the Order of the Government of India dated 21-11-1997 and we have already held that those who were not in service on 1-1-1996 could not claim any benefit of the Order dated 21-11-1997. Thus, present is not a case of any kind of discrimination and differentiation in pensionary benefits of pre and post-1-1-1996 retirees. We have already noticed above that the Order dated 21-11-1997 was issued in reference to pay and allowances of the Armed Forces Officers, which presupposes that these officers were in the establishment on 1-1-1996. We thus are of the view that the applicants were clearly not entitled for grant of benefit of higher pay scale under the Order dated 21-11-1997. The orders of the Armed Forces Tribunal extending the said benefit to those applicants who had already retired before 1-1-1996 are set aside whereas the orders of the Armed Forces Tribunal which have taken the view that the Armed Forces Officers, who have retired before 1-1-1996 are not entitled for pensionary benefits are upheld."

6. Having due regard to the principle which has been enunciated in the above decision, and on the plain terms of the communication dated 21 December 2004, it is not possible to accede to the contention of the petitioners that they should be granted benefits at par with those to whom the communication applies. Paragraph 11 of the Presidential sanction stipulates that the order will take effect from 16 December 2004. Admittedly, the petitioners retired prior to 16 December 2004 and were no longer in service. We are unable to accede to the prayers in the Writ Petition.

7. The Writ Petition is accordingly dismissed."

(emphasis supplied)

19. The respondents thus submit that there is no merit in the OA as the date of applicability of the provisions of the policy letter dated 21/12/2004 on the basis of recommendations of the AVSC has attained judicial finality. The respondents further submit that the applicant has already been granted the pensionary benefits for which he was entitled to as per the rank of Lt Col (TS) in terms of rules/provisions invoked at the time of his retirement. The respondents thus seek that the OA be dismissed.

ANALYSIS

20. On a consideration of the submissions that have been made on behalf of either side, it is essential to observe that in view of the verdict of the Hon'ble Supreme Court dated 20th February, 2020 in **Sushil Kumar Jain (Retd)** (supra) which had been filed by the petitioners thereof who were retired Majors of the Indian Army seeking the grant of pension equivalent to the rank of Lieutenant Colonel, in view of the AVSC recommendations which were promulgated on 21/12/2004 reducing the period for promotion to the rank of

Lieutenant Colonel as being a reckonable commissioned service of 13 years and there being no consideration for promotion to the rank of Lt Col (Selection) after 16th December 2004, **the contents of the very same policy letter dated 21.12.2004 no 18(I)/2004-D(GS-I) relied upon on behalf of the applicant in the instant case were considered and adjudicated upon with it having observed categorically that in as much as those petitioners had retired prior to 16/12/2004, their prayers that they should be granted benefits at par with those to whom the communication dated 21.12.2004 applied in as much as it took effect from 16/12/2004 and related to personnel who were in service in terms of the verdict of the Hon'ble Supreme Court in *Suchet Singh Yadav and Others* versus *Union of India and others* (2019) 11 SCC 520,- is no more *res integra*.**

21. As laid down by the Hon'ble Supreme Court vide para 37 in ***Suchet Singh Yadav and Others*** (supra):-

"37. There cannot be any dispute to propositions laid down in above mentioned

cases of this Court where this Court has laid down that the State cannot arbitrarily pick and choose from amongst similarly situated persons, a cut off date for extension of benefits especially pensionary benefits, there has to be a classification founded on some rational principle when similarly situated class is differentiated for grant of any benefit. As noted above, present is not a case where there is any discrimination in pensionary benefits of pre 01.01.1996 and post 01.01.1996 retirees. The applicants, base their claims on the order of the Government of India dated 21.11.1997 and we have already held that those who were not in service on 01.01.1996 could not claim any benefit of the order dated 21.11.1997. Thus, present is not a case of any kind of discrimination and differentiation in pensionary benefits of pre and post 01.01.1996 retirees. We have already noticed above that order dated 21.11.1997 was issued in reference to pay and allowances of Armed Forces Officers, which pre-supposes that these officers were in the establishment on 01.01.1996. We thus are of the view that applicants were clearly not entitled for grant of benefit of higher pay scale under the order dated 21.11.1997. The orders of the Armed Forces Tribunal extending the said benefit to those applicants who had already retired before 01.01.1996 are set aside whereas the orders of the Armed Forces Tribunal which have taken the view that Armed Forces Officers, who have retired before 01.01.1996 are not entitled for pensionary benefits are upheld.”

22. On a parity of reasoning, it is apparent that the letter no 18(I)/2004-D(GS-I) dated 21.12.2004, which relates to the restructuring of the officers Cadre of the Army, and which as scanned reads to the effect:-

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No. 18(I)/2004-D(GS-I)
Bharat Sarkar/Government of India,
Raksha Mantralay/Ministry of Defence,
New Delhi-110011,

21 Dec 2004

To
The Chief of Army Staff

Subject : RESTRUCTURING OF THE OFFICERS' CADRE OF THE ARMY

Sir,

President is pleased to sanction revision of various terms and conditions of service for Army Officers of all Arms/Services except AMC (including AMC Non-technical), ADC, RVC and APS, as given in the succeeding paragraphs.

2. Substantive Promotion. To reduce the age profile and supersession levels in the Army as also to improve vertical mobility, promotion to the substantive ranks of officers will be made on completion of reckonable commissioned service as indicated below :-

<u>Rank</u>	<u>Reckonable Commissioned Service</u>
(a) Lieutenant	On commissioning
(b) Captain	2 years
(c) Major	6 years
(d) Lieutenant Colonel	13 years
(e) Colonel (Time Scale)	26 years

3. Officers will be eligible for grant of substantive rank of Lieutenant Colonel on qualifying promotion examination Part 'D'. Subject to this, seniority in service of officers will be protected until they complete 13 years reckonable commissioned service. Loss of seniority for non qualification in promotion examinations already awarded will continue to hold good. Qualification in Part 'D' examination will no longer be mandatory for grant of substantive rank of Major. Promotions accruing from Para 2 above shall also be subject to the officers fulfilling other criteria to be notified immediately by the Army Headquarters through Army Orders.

4. Those serving in the rank of Lieutenant Colonel (Time Scale) will now be eligible for grant of the substantive rank of Lieutenant Colonel. The existing rank of Lieutenant Colonel (Selection) shall remain applicable till the existing Lieutenant Colonels (Selection) are either promoted to the rank of Colonel (Selection) or Colonel (Time Scale) or are retired. No further consideration for promotion to the rank of Lieutenant Colonel (Selection) shall be made after 16 Dec 2004.

5. Those officers who could not be considered for promotion due to organisational constraints to the select grade rank of Lieutenant Colonel (as per earlier policy) will be provided

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protection of their seniority vis-a-vis their own batchmates while being promoted to the select grade rank of Colonel.

Col. (Time Scale)

6. Officers not promoted to the rank of Colonel by selection may be granted the substantive rank of Colonel by Time Scale, irrespective of vacancies, provided they are considered fit in all other respects. The terms and conditions governing the rank of Colonel by Time Scale to these officers are as under:-

(a) Pay Scale. As applicable to Colonel Selection Grade which currently is Rs. 15,100-450-17,350.

(b) Rank Pay. Officers will be entitled to rank pay of a Lieutenant Colonel which currently is Rs. 1,600/- p.m.

(c) Other Allowances & Perks. Officers holding the rank of Colonel by Time Scale will be eligible for all allowances and other perks as applicable to Colonel Selection Grade.

(d) Age of Superannuation. All officers belonging to Judge Advocate General's Department, Army Education Corps, Military Farms, Special List Officers (Quartermaster, Technical, Record Officers) and Army Physical Training Corps (Master-at-Arms), Special Commissioned Officers, and Food Inspection Organisation cadre holding the rank of Colonel (Time Scale) will superannuate on attaining the age of 57 years. Officers holding the same rank in other Arms/Services will superannuate on attaining the age of 54 years.

(e) Medical Criteria. The provisions of AO 23/1990 and amendments thereto applicable so far for the rank of Lt Col(TS) will now be applicable *mutatis mutandis* to the new grade of Col (TS).

7. Officers holding the rank of Colonel by Time Scale will be held against the authorisation of Lieutenant Colonel. Such officers shall, in precedence, rank junior to the following officers:-

(a) Substantive Colonel by selection.

(b) Acting Colonel by selection.

8. Detailed criteria and procedure for grant of substantive rank of Colonel by Time Scale will immediately be notified by the Army Headquarters through Army Order.

9. As a consequence of the implementation of the above orders the appointments in which Majors and Lieutenant Colonels can be posted are given at Appendices 'A' and 'B' to this letter. *Mutatis mutandis* PEs / WEs of units, formations and establishments will stand modified to the above extent till their revision in due course.

10. Various orders and instructions affected by the above decisions would be amended in due course.

16(d) Age of Superannuation. All officers belonging to Judge Advocate General's Department, Army Education Corps, Military Farms, Special List Officers (Quartermaster, Technical, Record Officers) and Army Physical Training Corps (Master-at-Arms), Special Commissioned Officers and Food Inspection Organisation cadre holding the rank of Colonel (Time Scale) will superannuate on attaining the age of 57 years. Old term optees of Intelligence Corps will also be eligible for grant of Colonel (Time Scale) subject to the condition that their age of superannuation will be governed by the terms and conditions of option exercised by them. Officers holding the same rank in other Arms/Services will superannuate on attaining the age of 54 years. - Amended vide MoD letter No. 18(1)/2004-D(GS-I) dt 15 Dec 06.

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11. These orders will take effect from 16 Dec 2004.

12. This issues with the concurrence of Integrated Finance vide their Dy No. 1058-A/PA/Fin(AS)/04 dated 21 Dec 2004.

Yours faithfully,

(Bimal Julka)

Joint Secretary to the Govt of India

Copy to:-

- (1) The Controller General of Defence Accounts, New Delhi.
- (2) The Director of Audit, Defence Services, New Delhi.
- (3) The Controller of Defence Accounts (Officers), Pune
- (4) The Chief Controller of Defence Accounts (Officers), Pune
- (5) The Senior Deputy Director of Audit, Defence Service, Pune
- (6) The Deputy Director of Audit, Defence Service, Allahabad
- (7) The Adjutant General's Branch/PS2(a) - 200 copies
- (8) The Deputy Chief of the Army Staff, New Delhi - 5 copies
- (9) The Military Secretary, Army HQrs, New Delhi - 20 copies
- (10) Additional FA (V)

Copy signed in ink to:-

The Controller of Defence Accounts (Officers), Pune.
The Controller of Defence Accounts (Pensions), Allahabad.

Two copies:-

D(GS-1), D(GS-II), D(GS-III), D(MS), D(Works-II), D(Navy-II), D(Air-III);
D(Pen/Services), D(Pay/Services), Pen(c), D(QS), D(Med).

Copy also to:-

PS to RM
SO to Defence Secretary
PPS to Secy Defence (Finance)
PPS to Secretary (DP)
PS to Addl. Secy.

relates to the terms and conditions of service for the Army Officers of all Arms/Services except AMC (including AMC Non-technical), ADC, RVC and APS, as given in the succeeding paragraphs (as stated in para 1 of the said letter) and in terms thereof relates to **serving officers** of the Indian Army and thus those who were not in service on the date 16/12/2004 cannot be extended the benefit of the policy detailed in letter no 18(I)/2004-D(GS-I) dated 21.12.2004.

CONCLUSION

23. The prayers made by the applicant thus cannot be granted, he having retired on 31/03/2004 after attaining the age of 53 years as per the then prevalent policy dated 03.09.1998 letter no F.14(3)/98/D(AG).

24. The OA 2702/2021 is thus dismissed.

25. All pending applications are accordingly disposed of.

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

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

[JUSTICE ANU MALHOTRA]
MEMBER (J)

AP