

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

15.

OA 2721/2025

Ex WO Sunil Kumar Tripathi		Applicant
Versus		
Union of India & Ors.		Respondents

For Applicant	:	Mr. Bijendra Kumar Pathak, Advocate
For Respondents	:	Ms. Sunanda Shukla, Advocate

CORAM

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

ORDER
04.09.2025

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 the applicant has filed this application. The application is wholly frivolous and contrary to the fundamental principles of service jurisprudence. A person is entitled to promotion not merely because he has completed the requisite number of years of service but only if vacancies are available and the contract of employment continues to subsist. In the present case on the very first day when the applicant acquired the qualification of two years he had already retired on superannuation. The contract of service had come to an end. Reliance was placed on the judgment of the Madras High Court in Ayyamperumal v. Union of India & Ors. (W. P. No. 15732/2017) where it was held that once a person has earned an increment by working on the last day of his service the increment cannot be denied merely because he is not working on the following day. The right to the increment accrues on the day of retirement after

completing a year of service. This principle however does not apply to promotion for three reasons viz.

- (i) merely completing the qualifying service in the feeder post does not confer a right to promotion
- (ii) On the day of retirement there was no vacancy in the promotional post and even if there had been one the next day the contract of service had already ended. Once the contract ends no promotion can be granted to a person who is no longer in service and
- (iii) In the present case it is not even contended that a vacancy arose immediately after the applicant's retirement and was filled by promotion.

2. In our considered view this is frivolous litigation. When these facts were indicated to the learned counsel and it was also indicated that costs may be imposed counsel prayed for withdrawal of the application. We accordingly permit withdrawal. The application is dismissed as withdrawn.

[REDACTED]
[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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