

**COURT No.1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 2805/2021

Maj Paramjeet Singh	Applicant
Versus		
Union of India and Ors.	Respondents

For Applicant	:	Mr. S.S. Pandey, Advocate with Applicant-in-person
For Respondents	:	Mr. Rajeev Kumar, Advocate

CORAM

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

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and has made the following prayers:

"(a) Call for the records based on which the respondents have denied the status of Ex-Servicemen including the policies dated 22.11.2001, 04.10.2012 and 16.03.2018 as intimated to the applicant vide the impugned order dated 18.11.2021 and thereafter quash the same including the relevant portion of the policies.

(b) Direct the respondents to treat the applicant as an Ex-Servicemen and extend him all such concessions, rights, privileges and medical benefits applicable on the basis of the status as an Ex-Servicemen as applicable to the applicant.

(c) Issue such other/direction as this Hon'ble Tribunal may deem fit in the facts of the case."

Brief Facts of the Case

2. The applicant was commissioned in the Indian Army on 09.06.2012. He applied for Pre-mature retirement on extreme compassionate grounds, due to murder of his father, with responsibility of taking care of his mother falling on him. However, the respondents advised the applicant that as per the policy of MS Branch letter No.04588/MS Policy dated 22.11.2001, any permanent commissioned officer, if applies for premature retirement before completion of 10 years, the same will be treated as 'Resignation' and the applicant will not be held entitled for any terminal benefits.

3. Subsequently, applicant filed an amended application for resignation, which was approved by the competent authority vide MS Branch/MS-7C letter No.33002/217/10/Arty/MS PR dated 19.02.2019, and thus, the applicant was considered to have been resigned from service w.e.f 25.03.2019 with a service of 06 years and 11 months.

4. Admittedly, applicant later approached the Zila Sainik Board for issuance of Ex-servicemen card, which was declined by the District Defence Services Welfare Officer vide letter dated 18.11.2021, on the ground, that he does not fall within the definition of 'Ex-servicemen', prescribed vide MoD, DESW letter

No.28(66)2018/D(Res-I) dated 16.03.2018 & Ex. Servicemen (Re-employment in Civil Services and Posts) Amendment Rules, 2012 dated 04.08.2012 and thus, his request for grant of ESM card was rejected. Aggrieved by the aforesaid rejection, the applicant has approached this Tribunal.

Arguments by the Counsel for the Applicant

5. It is the case of the applicant, that as a Permanent Commissioned Officer who served for 06 years and 11 months, he is being unfairly discriminated against compared to Short Service Commission (SSC) officers, who receive ESM status despite serving only for five years.

6. It is brought out by the applicant that this distinction is unjustified, especially since Government of India notifications (including DoPT letter No.39016/10/79-Estt dated 15.12.1979 and the notification of 14.04.1987) define an Ex-Serviceman as someone who has served for a specified period and was released under conditions other than misconduct or inefficiency. Since, the applicant meets these criteria and should be granted ESM status.

7. It is the contention of the applicant that he was commissioned into service under the direct authority of the President of India and governed by the Pension Regulations for the Army, which states

that pension eligibility requires 20 years of service. However, an officer granted premature retirement due to compelling circumstances beyond their control should not be deprived of ESM status and related benefits, except pension.

8. It is further contended by the applicant that the employer, the Indian Army, cannot negate the years of service the applicant has rendered, especially when he has dedicated the prime years of his life to national service under challenging conditions. The ethos of the armed forces demands that veterans and soldiers be honoured; yet arbitrary decisions are eroding the integrity of this noble profession.

9. It is highlighted by the learned counsel for the applicant that the applicant had never foreseen a situation which would compel him to leave service but God has other plans for him as while the applicant was posted in North East, his father was brutally murdered, and brother sustained bullet injuries, due to which the applicant was left with no other option than to look after his brother and his widow mother.

10. It is argued by the applicant that he applied for PMR but was forced to resign due to policy constraints imposed by an order dated 22.11.2001, which prohibited officers with less than 10 years

of service from applying for premature retirement (PMR). This forced resignation should not be deemed voluntary, and yet, the applicant has been denied gratuity, which is provided even to casual labourers with five years of continuous service under the Payment of Gratuity Act, 1972.

11. Drawing a parallel with the other employees, it is submitted by the applicant that on a similar note as the applicant, Short Service Officers are granted gratuity if they complete five years, yet the applicant has been denied not only gratuity but also the ESM status without justification. As per applicant, this deprivation obstructs his right to post-service settlement and employment opportunities, violating his fundamental right to livelihood, effectively reducing his status to that of an unorganized sector worker. Thus, the applicant has filed this OA seeking ESM status and associated benefits.

Arguments by the Counsel for the Respondents

12. Per contra, it is submitted by the respondents that the applicant is not eligible for Ex-Serviceman (ESM) status as per the applicable rules and, therefore, there is no question of violating Articles 14 and 33 of the Constitution of India. The claim of discrimination is unfounded, as no selective or arbitrary treatment has been made against the applicant. The eligibility criteria for ESM

status have been clearly defined, and the applicant does not meet these conditions. The rules governing the grant of ESM status have been consistently applied, and there is no merit in the applicant's contention.

13. It is the case of the respondents that the applicant voluntarily resigned from service, fully aware of the implications of his resignation that he would not be entitled to terminal benefits, and as such Pension Regulations for the Army 2008 clearly state that personnel who resign from service forfeit their past service for pensionary benefits.

14. It is contended by the respondents that as per the established policy, one of the basic eligibility conditions for ESM status is the receipt of a pension. Since the applicant did not meet this criterion, he was rightly denied ESM status.

15. Responding to the comparison with SSC officers, it is submitted by the respondents that the applicant's attempt to compare himself with Short Service Commissioned (SSC) officers is not justified, as SSC officers have a different set of service terms and conditions. Moreover, even SSC officers were not granted ESM status before the DoP&T Notification dated 13.02.2020, which revised the criteria. Prior to this, any officer who took premature retirement before

completing pensionable service was not eligible for ESM status, and the same rule applies to the applicant.

16. Responding to parallel drawn by the applicant with other employees, it is submitted by the respondents that the applicant's attempt to draw an analogy with the Payment of Gratuity Act 1972 is incorrect because Army personnel are governed by a distinct set of pension regulations. The applicant cannot selectively invoke different laws to claim benefits that are not available under the service rules applicable to him and since resignation is a personal decision, the applicant cannot now seek benefits that are specifically meant for those who retire under the prescribed conditions.

17. It is further contended by the respondents that the definition of ESM has undergone revisions based on the recommendations of the High-Level Committee (HLC), which were later promulgated through the DoP&T Notification dated 27.10.1986, effective from 15.11.1986. As per this definition, only personnel who retired with a pension or those invalided out of service due to medical conditions with invalid or disability pension were eligible for ESM status. The applicant's case does not fit within these criteria.

18. With respect to the Ex. Servicemen (Re-employment in Civil Services and Posts) Amendment Rules, 2012 dated 04.08.2012, it is

submitted by the Respondents that the phrase '*discharged at own request or relieved by the employer after earning pension*' has been added to the definition, but does not extend to those who voluntarily resigned before completing the required service tenure.

19. Adding further, it is contended by the respondents that the applicant's claim for CSD and ECHS facilities is unfounded, as per Government of India, Ministry of Defence (MoD) letter No.7(3)/2019/WE/D(Res-1) dated 07.03.2019, personnel who resign from service are not eligible for ECHS facilities. There is no provision in government rules that allows a person who resigned from service to avail such benefits. The applicant's reliance on vague or unrelated provisions does not strengthen his case, as the policy governing these facilities clearly disqualifies resigned personnel.

20. With respect to the comparison with similarly situated individuals, it is argued by the respondents that no injustice has been done to the applicant, as his non-entitlement to ESM status is in accordance with existing rules. The policy framework governing ESM status has been uniformly applied, and the applicant cannot claim an exception. The claim that similar individuals have been granted ESM status is misleading, as the applicant's case does not match the precedents cited. The applicant, on the other hand,

voluntarily resigned before meeting the eligibility criteria and cannot claim benefits based on this ruling.

21. While concluding, it is brought out by the learned counsel for the respondents that the applicant does not meet the eligibility criteria for ESM status as laid down by the DoP&T rules and Government of India notifications, his resignation was voluntary and he cannot claim the benefits of ESM status under provisions that do not apply to him. The denial of his claim is based on clear legal and policy grounds, and thus, there is no merit in his request.

Consideration

22. We have heard the arguments on behalf of parties and perused the records and in particular the policy letters issued from time to time by various ministries of Govt. of India and Departments of Indian Army. The simple question that needs to be answered is that whether the applicant is entitled to being designated as an "Ex-Servicemen" and resultantly eligible for the benefits granted by Govt. of Punjab for relaxation of age granted to ex-servicemen in accordance with Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) Memo No.15015/2/2010-Estt (D) dated 27.03.2012 by the way of production of a certificate from the respondents to the effect that he

has worked in the Indian Army for certain number of years prior to resignation.

23. We had expressed our opinion in our order dated 08.05.2024 that merely rendering a certification of earlier service in Indian Army for the limited purpose of service relaxation in State Govt. appointment does not mean that the applicant is seeking a status of Ex-Servicemen. During the subsequent hearings as well as during the final arguments, it has been clarified to us by both parties that it is essential for us to analyse in a larger context whether the applicant fits the definition of being an "Ex-Serviceman" and considering the larger ramifications that the answer shall have in deciding similar prayers by all officers and soldiers who have resigned from service on their own volition to be called ex-servicemen and accordingly be eligible to all such benefits enjoyed by the 'Ex-Servicemen'. Therefore, we consider it essential to broaden the scope of our analysis to answer this question as it is not merely a case of issuance of a certificate by Zila Sainik Board but for grant of a Status of Ex-Servicemen for various purposes.

24. Subsequently, while granting interim prayer to the applicant through our orders on 22.05.2024, we had deliberately chosen not to grant 'Ex-Servicemen' status to the applicant even for the limited

purpose of taking entrance examination under Punjab Public Service Commission for Civil Appointment unless we dwell into the detailed policy guidelines, even considering the contents of Para 2(v) of DoPT Circular No.15012/2/2010-Estt.(D) dated 27.03.2012 which is extracted as under:

"2. (v) 'Ex Servicemen' means a person, who has service in any rank (whether as a combatant or an non-combatant), in the Armed Forces of the Union, including the Armed Forces of the former Indian States, but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena and Territorial Army, for a continuous period of not less than six months after attestation, and (i) has been released, otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency, or has been transferred to the reserve pending such release, or (iii) has been released at his own request after completing five years service in the Armed Forces of the Union."

25. At this moment, we consider it pertinent to also refer to the meaning of word 'resignation' as the same is particularly relevant to the case under consideration. The definition of word resignation as per Oxford English Dictionary *inter alia* means "The act of giving up or surrendering a position, office or power". Merriam-Webster Dictionary explained it as "The act of quitting or giving up a position or office". Similarly, Cambridge Dictionary defines it as "The act of officially giving up a job or position" and finally Collins Dictionary also calls this as "The act of giving up a job or position, especially in a formal or official way". Therefore, at this stage, we are of the

view that if "Resignation" is clearly different from "Premature Resignation" (hereinafter referred as PR).

26. During the course of submission, Mr. S.S. Pandey, learned counsel for the applicant vehemently opposed the act of issuance of policy letter by MS Branch arguing to the effect that MS Branch is not the competent authority to issue such policy guidelines defining and differentiating the word PMR and Resignation as they have done through their letter dated 25.02.2009 vide Para 1 – 11. The same is reproduced below:

PREMATURE RETIREMENT AND RESIGNATION POLICY IN RESPECT OF ARMY OFFICERS (EXCLUDING AMC, ADC AND MNS)

1. **Reference MS Policy letter No 04588/MS Policy dated 22 Nov 2001.**
2. **These instructions are being issued as a comprehensive revised policy on premature retirement (PR)/resignation. Policy issued vide MS Branch letter quoted at Para 1 above and subsequent communications on the subject stand superseded.**

Eligibility and Exceptions

3. **An officer who desires to retire prematurely or resign his commission before he becomes eligible for retirement on attaining the prescribed age of superannuation may apply for PR/resignation as per instructions contained in this letter.**

4. **Exceptions. These orders are not applicable, to the following cases: -**

- (a) **AMC, ADC and MNS Officers.**
- (b) **Officers who are compulsorily retired/resigned from service.**
- (c) **Retirements/resignations on spouse failing to acquire Indian citizenship as per AO 14/2004.**
- (d) **Release of Short Service Commissioned Officers during extension.**

Approving Authority

5. **The approving authority for PR for Brigadiers and below is Military Secretary and for resignations the authority has been vested with the COAS. The approving authority for General officers is the Govt of India.**

Premature Retirement (PR)

6. **Definition.** *PR is applicable to only Permanent Commissioned officers who have rendered ten years or more of service and are eligible for gratuity or pension or both and who wish to retire prior to the date of superannuation.*

7. **Obligation.**

(a) *Officer retains his commission.*

(b) *Officers upto the rank of Lt Col are transferred to Regular Reserve of Officers (Class X) and remain liable to be recalled to Army Service within five years of being struck off strength or the age of superannuation in the present rank which ever is earlier.*

8. **Entitlements.**

(a) *An officer who is entitled to retire prematurely will be entitled to retiring pension and Death-Cum-Retirement Gratuity. Officers with less than 20 years but more than 10 years of service are not entitled to any pension but they shall be granted retiring gratuity at the prescribed rates.*

(b) *Officers retiring prematurely are also entitled to encashment of accumulated annual leave. They are, however, not entitled to any disability pension.*

Resignation

9. **Definition.** *Resignation is applicable to an officer leaving the Army before he becomes eligible for pension/gratuity or when an officer seeks to resign voluntarily irrespective of the length of service by forfeiting the gratuity/pension.*

10. **Obligation.** *An officer who has resigned will neither have any reserve liability nor retain his commission after he is SOS from the Army.*

11. **Entitlements.** *No terminal benefits are permitted to those who resign their commission. However, leave encashment of accumulated leave is permitted.*

27. Further, learned counsel contended that such rules and stipulations can only be laid down by MoD as the competent authority authentically cannot be delegated. In order to examine the same, we find it essential to refer to GoI, MoD Letter No.19(11)2001-D (MS) dated 14.08.2001, along with the Annexure reproduced as under:

No. 19(11)2001-D (MS)
Government of India
Ministry of Defence

South Block, New Delhi,
Dated the 14th Aug. 2001.

To,

The Chief of the Army Staff

Subject: Delegation of Administrative Powers to Service Hqrs.

I am directed to say that Govt. has approved delegation of administrative powers to Army Hqrs in respect of various items, in matters of personnel and administration, which relate to cases submitted by Army Hqrs to MoD through D(MS). These items and the approving authority for each of these items are listed in the annexure.

2. Orders in respect of cases falling under these items which were heretofore issued by the Ministry of Defence, in the form of Government letters in the name of the President, will now be in the form of service notes to be issued by any Army officer dealing with the subject, or otherwise empowered to issue, (including the approving authority himself), in the name of COAS and/or the approving authority listed in the annexure. Wherever necessary, SoPs may be formulated for the implementation of these delegated powers. Copies thereof may be forwarded to this Ministry for records.

3. This issues with the concurrence of Defence (Finance), vide their Dy. No. 830-PA dated 14.08.2001.

Yours faithfully,

Sd/-

(Gurdial Singh)

Under Secretary to the Govt. of India

Copy for info to:- Addl. FA(T)
Dir (Fin/AG)
Dir (C&MIS)

xxx xxx xxx xxx xxx xxx

Annexure

Ministry of Defence letter No. 19(11/2001/D/MS) dated 14.8.2001

Delegation of administrative powers to Army Headquarters.

S. No.	Subject	Approving Authority	Issuing Authority
1	<u>Premature retirement of officers upto the rank of Brig. on all grounds</u>	<u>Military Secretary</u>	<u>AMS/DAMSS</u>

2	<i>Deputation of officers upto the rank of Brig to Central/State Government Orgns./PSUs within the sanctioned strength</i>	<i>-do-</i>	<i>-do-</i>
3	<i>Permanent absorption of officers upto the rank of Brig. to Central/State Government orgns./PSUs</i>	<i>-do-</i>	<i>-do-</i>
4	<i>Grant of all types of commission including hony. Commission to PBOR</i>	<i>-do-</i>	<i>-do-</i>
5	<i>Grant of permission to the officers upto rank of Brig. to seek civil/commercial employment</i>	<i>-do-</i>	<i>-do-</i>

28. A cursory look at the aforesaid letter makes it clear that all powers with respect to the cases of premature retirement of the officers up to the rank of Brigadier has been conferred to the MS Branch, but we find no mention of powers with respect to the Resignation. However, the position is clarified by GoI, MoD Letter No.MoD/IC/1027/32/AS(J)/6864/2006 dated 01.09.2006, along with the Appendix, which reads to the effect:

***MoD/IC/1027/32/AS(J)/6864/2006
Government of India
Ministry of Defence
New Delhi- 110011
the 01st of September 2006***

***The Chief of Naval Staff
The Chief of the Air Staff
Chief of the Army Staff***

Subject: Delegation of Administrative Powers to the Service Headquarters

Sirs,

A committee was formed under the Chairmanship of the Additional Secretary (I) in pursuance of the directive issued by the PMO vide ID number 36(8)/2005-D(O&M) dated 03 Oct 2005 to make recommendations for delegation of additional administrative powers to the Service Headquarters (SHQ).

2. The report of the committee submitted in January 2006 has been scrutinized and I am directed to convey the sanction for delegation of additional Administrative Powers as per following details:-

(a) Delegation of Administrative Powers with respect to Service Personnel- Appendix A.

(b) Delegation of Administrative Powers with respect to Civilian Personnel-Appendix B.

(c) Delegation of Administrative Powers in respect of Personnel Borne in IDS HQs-Appendix C.

3. In exercising the delegated powers mentioned in the Appendices mentioned above, wherever financial implications are involved, the concurrence/consultation with Integrated Financial Adviser/Defence (Finance) will be mandatory and the draft govt letter in such cases will be vetted by the IFA/CFA before issue.

4. SOPs for exercising these powers may be drawn up, wherever required and a copy may be forwarded to this Ministry. Same/similar power(s) delegated to any SHQ vide any other GoI/MeD lemer would stand superceded by this letter.

5. This issues with the concurrence of Ministry of Defence/ Finance vide their U.O. number 5705/Addl FA(M) dated 30 Aug 2006.

(AK Jain)

Additional Secretary to the Govt of India

Appendix A

DELEGATION OF ADMINISTRATIVE POWERS- SERVICE PERSONNEL

S No.	Subject	To be delegated to	Remarks
1	Authority for regularization of fraudulent or irregular enrolment of PBOR including their pay & allowances which is audited by audit authority and vetted by concerned Directorates, without reference to (Finance) MoD.	AG/COP/AOP	In consultation with respective IFAs.
2	Power to sanction projects for making of documents/publicity advertisement/blowup having films/financial implications from outside agencies (where these cannot be made through DAVP) which are already approved by MoD (Finance) for recruitment publicity including release of funds for payment.	AG/COP/AOA	In consultation with respective IFAs.
3	Authority for implementation of judgments delivered by various	AG/COP/AOA	In consultation

	<i>Courts/CATs including those with financial implications upto the amount computed and vetted by PCDA/audit authorities where further appeal is not contemplate.</i>		<i>with respective IFAs.</i>
4	<i><u>Turnover of Personnel from UN Missions/ Training Term Abroad.</u> (a) <u>UN Missions.</u> Authority for turnover of personnel including financial implications upto Rs. Ten crores for each turnover from UN missions abroad after initial sanction for deployment accorded by RM.</i>	<i>DCOAS (IS&T)/COP/AOP</i>	<i>In consultation with respective IFAs.</i>
	<i>(b) <u>Training Teams.</u> Turnover of personnel in training teams after initial sanction from RM be within the power of DCOAS (IS&T) as is given in MoD ID No. 34(3)/2001/D(O&M) dated 03 Aug 01.</i>	<i>DCOAS (IS&T)/COP/AOP</i>	<i>In consultation with respective IFAs.</i>
5	<i><u>Approval of Resignation of Officers.</u> The authority to approve resignation in respect of officers upto the rank of Brig/Equivalent.</i>	<i>COAS/CNS/CAS</i>	<i>-</i>
6	<i><u>Admission to RIMC.</u> The entire admission process is routine in nature. Authority to approve schedule of entrance examination and declaration of results.</i>	<i>DGMT</i>	<i>-</i>
7	<i><u>Expenditure on Defence Investiture Ceremony.</u> Authority to release the sanctioned amount in consultation with IFA.</i>	<i>AG/COP/AOA</i>	<i>In consultation with respective IFAs.</i>
8	<i><u>Deputation of PBOR to Central/State Govt Organisation/PSUs.</u> Delegation of authority for deputation of PBOR to central/State Govt organization/PSUs</i>	<i>DCOAS (IS&T)/COP/AOP</i>	<i>-</i>
9	<i><u>Study Leave ex India (including Extension of Study Leave).</u> Delegation of authority to sanction study leave including extension Ex-India upto Brig/equivalent.</i>	<i>DCOAS (IS&T)/COP/AOP</i>	<i>-</i>
10	<i><u>Introduction of new entry schemes/disciplines including</u></i>	<i>AG/COP/AOA</i>	<i>-</i>

	<i>technical educational qualifications for induction of personnel into the Army/Navy/Air Force with no additional financial implications.</i>		
11	<i>Authority to Approve Publications of Unclassified Service Matter Including Hosting of Website on Internet Containing unclassified Information. Authority to clear such publications including hosting of website on internet.</i>	<i>DGMI/DCNS/ACAS(Int)</i>	<i>-</i>
12	<i>Introduction review and rationalization of trades of PBOR.</i>	<i>AG/COP/ AOA</i>	<i>-</i>
13	<i>Initial induction of officers within the sanctioned cadre.</i>	<i>AG/COP/ AOA</i>	<i>-</i>
14	<i>Medical invalidment of officers of flying/Aviation branch who are found medically unfit for their branch duties upto Brig/Equivalent.</i>	<i>MS/COP/ AOP</i>	<i>-</i>
15	<i>Publicity through display advertisements, as outdoor publicity by open competitive bidding.</i>	<i>AG/COP/ AOA</i>	<i>In consultation with respective IFAs.</i>
16	<i>Passage advances, loans, purchase and permission to sell cars/computers, conversion to foreign currency, relaxation of basic pay limits in respect of service officers posted in foreign Missions etc. within the limits laid down by the Govt.</i>	<i>QMG/COP/ AOA</i>	<i>As per guidelines issued by Govt from time to time.</i>

29. It is thus, hereby, clear from the perusal of the aforesaid Appendix at Sl.5 that the competent authority to approve the resignation of officers up to the rank of Brigadier is the Chief of Army Staff, which is clear from the intention that the approving authority is supposed to be the Chief of Army Staff, and not the Ministry of Defence in particular, as argued by the Ld. Counsel for

the applicant. It can thus clearly be ascertained that the MS Branch being the delegated staff authority of the Chief of Army Staff, the powers pertaining to the 'resignation' have been delegated, to the MS Branch.

30. That apart, Mr. Pandey, learned counsel for the applicant has also relied upon information received under 'Right to Information Act' to submit to the effect that powers are delegated to MS Branch only with regard to PMR of officers up to rank of Brigadier and, therefore, MS Branch is not the authority to make stipulation with regard to definition of resignation. While carefully analysing SI.5 of the above quoted appendix, we find that the answer lies within the statement itself that delegation cannot be merely done for the purpose of PMR alone up to the rank of Brigadier by making an exclusion of resignation. If that were to be so, the resignation of the applicant would have been sanctioned by the MoD and not by MS Branch. However, it is evident from letter No.33002/217/10/Arty/MSPR dated 19.02.2019 placed at Annexure A-4, that the letter of resignation has been issued by the MS Branch to the applicant and, therefore, we have no reason to hold that the delegation of power for resignation of officers has not been delegated to MS Branch of Army HQ.

(ii) persons with disability attributable to military service: and

(ii) gallantry award winners

Explanation: The persons serving in the Armed Forces of the Union, who on retirement from service, would come under the category of 'ex-servicemen', may be permitted to apply for re-employment one year before the completion of the specified terms of engagement and avail themselves of all concessions available to ex-servicemen but shall not be permitted to leave the uniform until they complete the specified term of engagement in the Armed Forces of the Union.

Note: The principal rules were published vide notification No. GSR-1530, dated the 29th Dec., 1979 in the Gazette of India, Part-II, Section 3, Sub-Section (i) pages 3004-3005.

Sd/-
(BATA K. DEY)
Director (JCA)

XXX XXX XXX XXX XXX XXX

No. 36034/5/85/Estt(SCT)
Government of India
Ministry of Personnel, Public Grievances & Pension
(Department of Personnel & Training)

New Delhi, the 27th Mar 87

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the Constitution, the resident hereby makes the following rules further to amend the ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules 1979, namely:

1. (a) These rules may be called the ex-Servicemen (Re-employment in Central Civil Services and Posts) Amendment Rules 87.

(b) They shall be deemed to have come into force on the 15th day of Nov., 1986.

2. In Rule 2 of the ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules 1979 to clause (c) the following proviso shall be added, namely:

provided that for the period commencing on the 15th day of Nov 1986 and ending with the 30th day of June 87, any person who has been released :-

(a) at his own request after completing five years service in the Armed Forces of the Union; or

(b) after serving for a continuous period of six months after attestation, otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency or has been transferred to the reserve pending such release:

Shall also deemed to be an ex-Servicemen for the purpose for this clause.

Note :-

Principal rules were published vide Notification No. GSR 1530 dated the 29th Dec., 1979 and subsequently amended vide notification No. GSR 973 dated the 15th Nov., 1986 in the Gazette of India, Part II Section 3, Sub Section.

*Sd/-
(BATA K DEY)
Director (JCA)*

32. We note that whereas the letter dated 27.10.1986 covers the definition, it is noteworthy that certain changes were applied for a limited period from 15.11.1987 to 30.06.1987. It is relevant to note that the rule applied for 'release at own request' after completing five years of service as in Para 2(a) and yet an exception is made for armed forces personnel after serving for continuous period of six months after attestation otherwise *inter alia* 'release at his own request'.

33. It is essential to observe that soon after the above quoted letter was issued, yet another letter was issued by the same authority, i.e., DoPT, GoI dated 14.04.1987 defining the term "Ex-Servicemen" which reads as under:

*No 36034/4/85-Estt (SCT)
Government of India
Ministry of Personnel Public Grievances & Pensions
Department of Personnel & Training*

New Delhi, Dated 14 Apr 87

OFFICE MEMORANDUM

Sub :- Recommendation No. 15.2 of the High Level Committee on the problems of ex Servicemen-Revision of the definition of 'ex-Servicemen' in the ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules 1979.

The undersigned is directed to say that the High Level Committee on the problems of ex-Servicemen recommended the following definition of the term "ex-Servicemen".

"An 'ex-Serviceman' means a person, who has served in any rank whether as a combatant or non combatant in the Regular Army, Navy and Air Force of the Indian Union and

- (i) who retired from such service after earning his/her pension; or*
- (ii) who has been released from such service on medical grounds attributable to military service or circumstances beyond his control and awarded medical or other disability pension; or*
- (iii) who has been released, otherwise than on his own request from such service as a result of reduction in establishment; or*
- (iv) who has been released from such service after completing the specific period of engagements, otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency, and has been given a gratuity, and includes personnel of the Territorial Army of the following categories, namely :-*
 - (i) pension holders for continuous embodied service*
 - (ii) persons with disability attributable to military service; and*
 - (iii) gallantry award winners."*

2. After careful consideration the Government has accepted the above definition recommended by the High Level Committee. However, it may be observed that in the new suggested definition certain categories of personnel which have served in the Armed Forces of the Union have been excluded for consideration as ex-Servicemen, whereas certain additional categories of Territorial Army Personnel have been added in the revised definition. The Notification containing the revised definition was issued on 27 Oct 1986 and published in the official Gazette on 15th Nov 1986. The Notification gives effect to the new definition from the date of its publication, but since some of the categories were excluded without adequate publicity, the effect of the earlier notification of 27 Oct 1986 has been stayed by issuing another Notification dated 27 Mar 87 (copy enclosed) in which the date of effect has been indicated as 1.7.87. The net effect is that the following two categories of personnel, who were included in the pre-revised definition of 'ex-Servicemen' will now cease to be treated as ex-Servicemen w.e.f. 1.7.87 as will be seen from the following proviso, namely,

"Any person who has been released:-

- (a) at his own request after completing five years service in the Armed Forces of the Union; or*
- (b) after serving for a continuous period of six months after attestation, otherwise than at his own request or by way of dismissal or discharge on account of mis-conduct or inefficiency or has been transferred to the reserve pending such release; shall also deemed to be an ex-Servicemen for the purpose of this clause."*

3. The Territorial Army personnel will however be treated as ex-Servicemen w.e.f. 15.11.86.

4. Ministry of Finance etc are, therefore, requested to bring the contents of this Office Memorandum to the notice of all the appointing authorities

under their administrative control and ensure that there is no laxity on the part of the authorities implementing the above instructions.

*Sd/-
(BATA K DEY)
Director (JCA)*

34. While dealing with the grant of ex-servicemen status to personnel of Army Postal Service, we observe that the MoD issued a notification dated 19.07.1989 based on the DoPT Notification dated 27.10.1987 wherein Para 1 extracted below resonates the policy provision with respect to Ex-Servicemen:

*No. 9(52)/88/D(Res)
Government of India
Ministry of Defence*

New Delhi dated 19th July 1989

OFFICE MEMORANDUM

Sub : Grant of ex Servicemen status to Army Postal Service Personnel

1. The undersigned is directed to say that the revised definition of an ex-Serviceman recommended by the High Level Committee on problems of ex-Servicemen, was accepted by the government of India and a Notification (NO. 36034/5/85-Estt(SCT) to this effect had been issued by the deptt of Personnel & Training on 27th October, 1987. Under this, "ex-servicemen" means a person, who has served in any rank (whether as a combatant or as a non-combatant) in the Regular Army, Navy and Air Force of the Indian Union but does not include a person who has served in the Defence Security Corps, the General Reserve Engineering Force, the Lok Sahayak Sena and the Para Military Forces; and

- (i) who has retired from such service after earning his/her pension; or***
- (ii) who has been released from such service on medical grounds attributable to military service or circumstances beyond his control and awarded, medical or other disability pension;***
- (iii) who has been released, otherwise than on his own request, from such service as a result of reduction in establishment; or***
- (iv) who has been released from such service after completing the specific period of engagement otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency, and has been given a gratuity; and includes the following personnel of the Territorial Army of the following categories, namely:-***
 - (i) pension holders for continuous (embodied) service;***

- (ii) *persons with disability attributable to military service;
and*
- (iii) *gallantry award winners.*

xxx	xxx	xxx
xxx	xxx	xxx

35. While interpreting the letter dated 14.04.1987, it is essential to emphasise various conditions that have been applied for an armed forces personnel to qualify to be termed as 'Ex-Servicemen' and the policy letter further qualifies the definition to state that "*who retired from such service after earning his/her pension*". *Inter alia*, on further reading of the letter, we observe that certain exceptions have been applied at Para 1(iv). Certain key issues which require our consideration that are "otherwise than at his own request xxx xxx xxx has been given a gratuity". That besides, Para 2 of the letter excludes from the definition of ex-servicemen w.e.f. 1.7.87 any person who has been released at his own request after completing five years of service in the Armed Forces.

36. Moving on to a careful perusal of the Pension Regulations for the Army, Part-I (2008), we sought to find answers to the entitlement of gratuity wherein Para 17(d) and notes therein, Para 19, 39 and 142(a) are extracted below:

QUALIFYING SERVICE FOR PENSION AND GRATUITY:

17.	xxx	xxx	xxx
	xxx	xxx	xxx

(d) Retiring/Service/Invalid/Terminal Gratuity for Service Personnel – Actual qualifying service rendered.

Notes: 1. There will be no weightage for service personnel who retire prematurely for permanent absorption in Public Sector Undertakings and autonomous bodies.

2. There will be no weightage for service personnel of the Territorial Army.

3. The weightage shall not be reckoned for determining the minimum qualifying service specified for admissibility of retiring/service pension.

4. Full pre-Commissioned service rendered under the Central Government whether in a civil department or in the Armed Forces, shall be taken into account for working out the qualifying service for earning pensionary benefits subject to fulfillment of other conditions. This will also be counted for determining the minimum qualifying service indicated in Regulation 34, 47 & 168 of these Regulations for earning retiring/service pension.

5. Resignation from service, unless it is allowed to be withdrawn in public interest, entails forfeiture of past service except where it has been submitted to take up, with proper permission another appointment under the Government where service qualifies.

xxx	xxx	xxx
xxx	xxx	xxx

SERVICE WHICH QUALIFIES FOR PENSION IN RESPECT OF REGULAR OFFICER

19. The following periods of service shall qualify for pension as regular Commissioned Officer:

(a) Service as a Commissioned Officer and officer of Military Nursing Service.

(i) Previous service as Officer in the Army, Navy and Air Force irrespective of the type of commission, jointly or severally, subject to the refund in the prescribed manner to the Government, of the gratuity, if any, other than war gratuity, received in respect of such service provided that:

(I) any service which was forfeited by special orders, and

(II) any period of unauthorised absence unless pay and allowances are admitted for the period of absence,

shall not be regarded as qualifying service, nor any period of ante-date except as provided in clauses (I) and (m) below.

(ii) In the case of Engineering Graduates, if Short Service Commission is followed by permanent commission, the period during which an Officer holds Short Service Commission on probation will reckon for the purpose of pensionary benefits.

xxx	xxx	xxx
xxx	xxx	xxx

MINIMUM SERVICE FOR EARNING RETIRING GRATUITY

39. The minimum period of qualifying service actually rendered and required to earn retiring gratuity by Officer shall be 10 years (without weightage).

xxx	xxx	xxx
xxx	xxx	xxx

CHAPTER-V

RETIREMENT GRATUITY AND DEATH GRATUITY

RETIREMENT GRATUITY WHEN ADMISSIBLE

142. (a) Service personnel who has completed 5 years actual qualifying service and is eligible for retiring/service/invalid/special/disability/ war-injury/liberalised disability pension or retiring/service/special gratuity under these Regulations, shall be granted on termination of his service, a retirement gratuity equal to one fourth of the reckonable emoluments for each completed six monthly period of qualifying service, subject to a maximum of 16½ times the reckonable emoluments, provided that the amount of retirement gratuity payable shall in no case exceed Rupee 3.5 lakhs.

xxx	xxx	xxx
xxx	xxx	xxx

It is thus, clear that the applicant was not entitled to service gratuity while he resigned from the Army.

37. Dwelling further on the expression of Ex-Servicemen, we consider it pertinent to place on record DoPT Notification dated 04.10.2012 with respect to Ex-Servicemen for purpose of 'Re-employment in Central Civil Services and Posts, Rules, 1979' which is extracted as under:

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub section (i)]

Government of India
Ministry of Personnel, Public Grievances and Pensions

NOTIFICATION

New Delhi, dated the 4th October 2012

G.S.R. - In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Ex-servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979, namely:-

1. (1) *These rules may be called the Ex-servicemen (Re-employment in Central Civil Services and Posts) Amendment Rules, 2012.*

(2) *They shall come into force from the date of their publication in the Official Gazette.*

2. *In the Ex-servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979*

(1) *in rule 2, for clause (c), the following clause shall be substituted, namely:-*

(c) *An 'ex-serviceman' means a person -*

(i) *who has served in any rank whether as a combatant or non-combatant in the Regular Army, Navy and Air Force of the Indian Union, and*

(a) *who either has been retired or relieved or discharged from such service whether at his own request or being relieved by the employer after earning his or her pension; or*

(b) *who has been relieved from such service on medical grounds attributable to military service or circumstances beyond his control and awarded medical or other disability pension; or*

(c) *who has been released from such service as a result of reduction in establishment;*

or

(ii) *who has been released from such service after completing the specific period of engagement, otherwise than at his own request, or by way of dismissal, or discharge on account of misconduct or inefficiency and has been given a gratuity; and includes personnel of the Territorial Army, namely, pension holders for continuous embodied service or broken spells of qualifying service;*

xxx

xxx

xxx

xxx

xxx

xxx

In a bare perusal of Para 2(c) (ii), we find that the applicant is not entitled to be a beneficiary under the 'Ex-Servicemen' category for re-employment in Central Civil Services and Post.

38. Further, we have perused the provisions of Gazette of India Notification No.98 dated 13.02.2020 wherein an amendment has been brought in for the "Short Service Commissioned Officers" and the same is reproduced below:

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

NOTIFICATION

New Delhi, the 13th February, 2020

G.S.R. 116(E).-In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Ex-servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979, namely:-

1. Short title and commencement: -

- (1) These rules may be called the Ex-servicemen (Re-employment in Central Civil Services and Posts Amendment Rules, 2020.
- (2) They shall come into force on the date of its publication in the Official Gazette.

2. In the Ex-servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979, in rule 2, in clause (c) in sub-clause (ii), the following proviso shall be inserted, namely:-

"Provided that Short Service Commissioned Officers released from service after completing initial terms of engagement otherwise than by way of dismissal or discharge on account of misconduct or inefficiency and have been given gratuity shall be eligible to the status of Ex-servicemen;"

[F. No. 36034/1/2019-Estt. (Res)]

SUJATA CHATURVEDI, Addl. Secy.

Note : The Principal rules were published in the Gazette of India, Part II, Section 3, Sub-section (ii), vide G.S.R. 1530, dated the 15th December, 1979 and subsequently amended as follows:-

1. G.S.R. 973, dated 27th October, 1986;
2. G.S.R. 333(E), dated 27th March, 1987; and
3. G.S.R. 757(E), dated 4th October, 2012.

39. Accordingly, we observe that a clarification was issued by MoD vide their Office Memorandum dated 20.04.2021 which is reproduced below clearly stipulated that the Ex-Servicemen status was extended to Short Service Commission Officers (SSCOs) for the purpose of re-employment in Central Civil Services and Post.

**No. 1(07)2014/D(Res.I)
Ministry of Defence
Department of Ex-servicemen Welfare
D (Res-I)**

Sena Bhawan, New Delhi

Dated: 20 April, 2021

OFFICE MEMORANDUM

Subject : Clarification regarding ESM Status to Short Service Commission Officers(SSCOs).

Department of Personnel and Training (DoPT) vide notification dated 13.2.2020 amended the Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979 by inserting the following proviso after clause [C] in sub-clause [ii]:-

" Provided that Short Service Commissioned Officers released from service after completing initial terms of engagement otherwise than by way of dismissal or discharge on account of misconduct or inefficiency and have been given gratuity shall be eligible to the status of Ex-Servicemen"

2. In this connection, it is clarified all Short Service Commissioned Officers (SSCOs) who were released from Service with gratuity will get the Status of Ex-Servicemen w.e.f 13.2.2020 or thereafter,

3. This issues with approval of Hon'ble RM.

sd/-

(Suman Sharma)

Under Secretary to the Government of India

Tele-23793365

40. On the question of specifically various facilities entitled to various categories of premature retirees, SSCOs and War Veterans, we have noted the contents of MoD, Dept of Ex-Servicemen Welfare letter dated 07.03.2019 which is reproduced with the observation that the applicant is not benefitted by the contents of this letter, having resigned his commission, and the same is reproduced herein:

**No. 17(11)/2018/We/D(Res-1)
GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
(DEPARTMENT OF EX SERVICEMEN WELFARES)**

**B Wing, Room No. 221
Sena Bhavan, New Delhi**

Dated 07th March, 2019

**To,
The Deputy Managing Director,
Ex-Servicemen Contributory Health Scheme,
Central Organisation,
Thimaiya Marg, Gopinath Circle
Delhi Cantt**

Subject: *Grant of ECHS facilities to World War II Veterans, ECOs, SSCOs and pre-mature retirees*

Approval of the Competent Authority is hereby conveyed for grant membership of ECHS to World War II Veterans, Emergency Commissioned Officers (ECOs), Short Service Commissioned Officers (SSCOs) and pre-mature retirees by waiving off the conditions relating to receipt of pension and being ESMs for becoming eligible to receive medicare under ECHS, subject to the following conditions:

- (i) They must apply for membership of ECHS and accept the Rules of ECHS*
- (ii) ECHS facilities would be extended only to the individuals of the above-mentioned categories and their spouses.*
- (iii) They will have to pay one-time contribution and become members of the ECHS. (However, war widows shall be exempt from payment of one-time ECHS contribution)*
- (iv) They should not have been discharged on disciplinary grounds.*
- (v) They should not be covered under any other institutional health scheme of the Government*
- (vi) They should abide by the ECHS Rules as amended from time to time.*
- (vii) The WW-II Veterans and ECOs and their spouses would be allowed all ECHS facilities including treatment in ECHS empanelled hospitals, and free OPD and IPD treatment facilities at the AFMS Hospitals, as available to other ECHS members*
- (viii) The SSCOs and pre-mature retirees would be eligible for the allowing facilities*
 - (a) Free OPD services from ECHS Polyclinics*
 - (b) They must pay for OPD/IPD/Investigations in ECHS empanelled hospitals and seek reimbursement @ 75% of total admissible expenditure for personnel having more than 10 years of service and @ 50% of total admissible expenditure for personnel having less than or equal to 10 years of service*

2. *This issues with the concurrence of MoD (Fin/Pen) vide their ID No 31(02)/2019/Fin/Pen dated 7.3.2019*

sd/-
(A.K Kam)
Under Secretary to the Government of India
Tele: 23014946

41. Therefore, on a mere interpretation of various policy letters quoted and analysed above, we are of the opinion that the applicant is not entitled to the benefits he is seeking for the purpose of re-employment in government service that are extended to the ex-

servicemen, as he resigned his commissioned service at his own volition and is thus not entitled to any service pension or gratuity.

42. With respect to the reliance placed by the applicant on the judgements of Hon'ble Supreme Court in the case of **Raj Pal Sharma & Ors.** Vs. **State of Haryana** (AIR 1985 SC 1263) and **Sansar Chand Atri** Vs. **State of Punjab** (CA No.2403/2002) is concerned, we find that the issues dealt in the aforesaid cases are distinct from the instant case, as in both the cases, the issue was with respect to the exclusion of appellants being retired/discharged or prematurely retired, and not with respect to resignation.

43. Similarly, we observe that the reliance placed by the applicant on the judgement of this Tribunal in the case of **Disabled War Veterans (India) Regd.** Vs. **Union of India & Ors.** [W.P. (Civil) No.487/2004 Delhi HC - TA 115/2010] is misplaced, as the issue dealt in by this Tribunal pertains to grant of pay of War Injury Pension, and in no way discusses the terms and conditions of service of the officers.

44. Last but not the least, we note that while the applicant has relied upon the judgement of Hon'ble Delhi High Court in the case of **Major Kapil Sawhney** Vs. **Union of India & Ors** [W.P. (C) No.7302/2016] on the pretext that the applicant in the aforesaid

case has a service of almost 06 years similar to the applicant in the instant case, and that, he took retirement on his own request. It is essential for us to distinguish the applicability of the aforesaid case relied upon by the applicant on the fact that the applicant was a SSC Officer, and has taken voluntary retirement during his extension period, after finishing off his initial engagement of 05 years, and that in the instant case, the applicant is a PC Officer, resigning his commission in his initial engagement itself. It is pertinent to emphasize that the terms and conditions of service of the PC officers are different from those of the SSC officers.

45. Before parting, we note that the issue deliberated herein has been dealt by this Tribunal earlier in the case of **Maj Harpal Singh Virk (Retd.) Vs. Union of India & Ors.** [OA 1273/2017 decided on 21.12.2018], wherein this Tribunal has observed to the effect:

16. We find that the applicant was a permanent commissioned officer who, after completing about 12 years of regular service and earning gratuity, took voluntary discharge from service in October 1991 due to personal compulsions. The applicant was issued an Ex-Servicemen identity card on retirement and detailed, as an Ex-Servicemen, for attending a course in Export Marketing Management from the Indian Institute of Foreign Trade, through the Directorate of Resettlement, Ministry of Defence. The applicant and dependents were also granted canteen facilities and medical facilities at military hospitals. However, his Ex-Servicemen status was suddenly cancelled by the withdrawal of his Ex Servicemen identity card in 2015, when he had gone to the Zila Sainik Board office in Gurgaon to collect an Ex-Serviceman certificate.

17. We find that the issue of military personnel being denied various entitlements on the grounds of voluntary discharge/ premature retirement has been resolved by a catena of the Hon'ble Apex Court and this Tribunal particularly the matter of Maj RK Bhardwaj vs Union of India & Ors with regard to grant of disability pension. We also find that the respondents, by way of circular dated 9/10.10.1995, have themselves withdrawn the

stipulation of not having been released/ retired at their own request from the definition of Ex-Servicemen, albeit for those who had completed pensionable service.

18. We, also take note of the judgment of AFT (RB) Guwahati dated 24.12.2010 in the matter involving a similarly placed petitioner, Maj Prasanta Kumar Sinha, who was granted Ex-Servicemen status, other than re-employment as an Ex-Servicemen in Govt and medical facilities through ECHS, vide the order of the Tribunal.

19. We are in agreement with the contention of the respondents that the applicant can neither be granted re-employment as an Ex-Servicemen in Govt. jobs nor can he avail of medical facilities through ECHS. However, we find no just reason for denying the applicant Ex-Servicemen status along with consequential benefits that accrue, like canteen facilities, treatment in military medical facilities etc., other than those which are specifically inapplicable as per the 'Speaking Order dated 23.12.2011 addressed to Major Prasanta Kumar Sinha, a similarly placed retiree, consequent to aforesaid judgment of this Tribunal.

20. In the result, the OA is found to bear merit and is allowed. Ex-Servicemen status to be restored to the applicant and he be issued an Identity Card accordingly, which may also specify the exceptions with regard to benefits that accrue to him as an Ex-Servicemen. Order to be implemented within three months of the date of issue of this order. Further, respondents to issue a comprehensive definition of Ex-Servicemen, to cover issues beyond re-employment benefits, as was envisaged vide Para 3 (c) of Speaking Order vide Ministry of Defence (Department of Ex-Servicemen Welfare) letter dated 23.12.2011. Needless to say, the comprehensive definition should be inclusive, rather than exclusive, keeping principles of natural justice in view and the fact that discrimination and differentiation amongst Ex-Servicemen should be avoided to the extent possible. No order as to costs.

46. On a perusal of the aforesaid judgement, and its application on the instant case, it is thus clear that the applicant is not entitled for Ex-servicemen status for the purpose of re-employment. However, he is entitled for the CSD facilities, and ECHS benefits as extended to him vide MoD, Dept of Ex-Servicemen Welfare letter dated 07.03.2019, and the judgement of this Tribunal in the case of **Maj Harpal Singh Virk** (supra).

47. We further note that this Tribunal has directed for the formulation of the comprehensive definition of the 'ex-servicemen'

(ii) Who has been released from such service on medical grounds attributable to military service or circumstances beyond his control and awarded medical or other disability pension; or

(iii) Who has been released, otherwise than on his own request, from such service as a result of reduction in establishment; or

(iv) Who has been released from such service after completing the specific period of engagements, otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency, and has been given a gratuity, and includes personnel of the Territorial Army of the following categories, namely:-

(aa) Pension holders for continuous embodied service

(ab) Persons with disability attributable to military service; and

(ac) Gallantry award winners.

(e) After careful consideration the Government has accepted the above definition recommended by the High Level Committee. However, it may be observed that in the new suggested definition, certain categories of personnel who have served in the Armed Forces of the Union have been excluded for consideration as ex-Servicemen whereas, certain additional categories of Territorial Army Personnel have been added in the revised definition. The notification containing the revised definition was issued on 27 Oct 1986 and published in the official gazette on 15th Nov 1986. The notification gives effect to the new definition from the date of its publication, but since some of the categories were excluded without adequate publicity, the effect of the earlier notification of 27 Oct 1986 was withheld by another notification dated 27 Mar 87 in which the date of effect was specified as 01 Jul 87. Consequently, the two categories of personnel, who were included in the pre-revised definition of 'Ex-Servicemen' ceased to be considered as Ex-Servicemen w.e.f. 01 Jul 87 as will be seen from the following proviso, namely,

"Any person who has been released:-

(i) At his own request after completing five years service in the Armed Forces of the Union

or

(ii) After serving for a continuous period of six months after attestation, otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency or has been transferred to the reserve pending such release; shall also be decided to be an Ex-Servicemen for the purpose of this clause."

(f) The Territorial Army personnel will be treated as Ex-Servicemen w.e.f. 15 Nov 1986.

(g) Those released on or after 04 Oct 2012. An ex-serviceman means a person, who has served in any rank whether as a combatant or non-combatant in the Regular Army, Navy and Air Force of the Indian Union, and

(i) Who either has been retired or relieved or discharged from such service whether at his own request or being relieved by the employer after earning his or her pension; or

(ii) Who has been relieved from such service on medical grounds attributable to military service or circumstances beyond his control and awarded medical or other disability pension; or

(iii) Who has been released from such service as a result of reduction in establishment; or

(iv) Who has been released from such service after completing the specific period of engagement, otherwise than at his own request, or by way of dismissal, or discharge on account of misconduct or inefficiency and has been given a gratuity; and includes personnel of the Territorial Army, namely, pension holders for continuous embodied service or broken spells of qualifying service; or

(v) Personnel of the Army Postal Service who are part of Regular Army and retired from the Army Postal Service without reversion to their parent service with pension, or are released from the Army Postal Service on medical grounds attributable to or aggravated by military service or circumstance beyond their control and awarded medical or other disability pension; or

(vi) Personnel, who were on deputation in Army Postal Service for more than six months prior to the 14th April, 1987; or

(vii) Gallantry award winners of the Armed forces including personnel of Territorial Army; or

(viii) Ex-recruits boarded out or relieved on medical ground and granted medical disability pension.

31. Short Service Commissioned Officers. As per DOPT Notification dated 13th February, 2020, Short Service Commissioned Officers (SSCOs) released from Service after completing initial terms of engagement other than by way of dismissal or discharge on account of misconduct or inefficiency and have been given gratuity shall be eligible for the status of Ex-Servicemen.

48. Going through a detailed analysis of the aforesaid Guide Book-2022, the applicant herein does not secure any relief, though the same does not apply on the applicant being a later formulation post the resignation of the applicant w.e.f. 25.03.2019.

49. Even if so, in view of the aforesaid comprehensive analysis preceding the formulation of definition, the applicant is not entitled

for the ex-servicemen status for the purpose of re-employment. However, other benefits such as the CSD facilities and ECHS facilities shall be extended to him as applicable.

50. Therefore, the aforesaid OA 2805/2021 is disposed of in terms of aforesaid directions.

51. No order as to costs.

52. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 17th day of April, 2025.

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

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

Neha

for the ex-servicemen status for the purpose of re-employment. However, other benefits such as the CSD facilities and ECHS facilities shall be extended to him as applicable.

50. Therefore, the aforesaid OA 2805/2021 is disposed of in terms of aforesaid directions.

51. No order as to costs.

52. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 17th day of April, 2025.

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

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

Neha