

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

O.A. No. 361 of 2025

In the matter of :

Flt Lt Purnendu Kumar Singh

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Shri Ajit Kakkar, Advocate

For Respondents : Shri Prabodh Kumar, Sr. CGSC

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

Invoking the jurisdiction of the Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter referred to as 'AFT Act'), the applicant has filed this OA and the reliefs claimed in Para 8 read as under :

"(a) To direct the Respondent to quash/set aside the Impugned Order dated 05.10.2023 and 26.03.2024.

(b) To direct the respondents to grant Premature Separation from Services (PSS) on compassionate ground to the Applicant.

- (c) ***To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.***

BRIEF FACTS

2. The applicant was commissioned in the Indian Air Force on 21.12.2019. It is the case of the applicant that due to certain issues relating to his family, he sought premature separation from service (PSS) on extreme compassionate grounds and thus he filed two applications seeking premature separation from service.

3. The facts as stated by the applicant are that he lost his father in 2016 and he became the only sole male member of the family with the responsibility of taking care of his family which consists his mother, two elder sisters and his grandparents. The mother of the applicant has been suffering from a slip-disc, hypertension and diabetes and due to which she was bedridden since 2024, however, before that despite her illness, she had been taking care of her own parents, who have been bedridden since 2017. Besides, the mother of the applicant was deeply affected by the untimely demise of the applicant's father adding to her physical and emotional

struggles. The applicant further submitted that his grandfather has a long-standing history of age-related ailments that have significantly impacted his daily life; that over the years, his health has progressively deteriorated, making even the most basic tasks challenging and requiring constant assistance and care; his condition has not only restricted his mobility but has also rendered him increasingly dependent on others for his day-to-day activities, including personal care and household matters and due to the same with the adverse effect of advancing age, he is unable to participate actively in family or social engagements.

5. It is further stated by the applicant that his grandmother is also suffering from severe mental illness and profound deafness, conditions that have left her in a highly vulnerable state requiring constant personal care and attention and assistance; that her mental health struggles have significantly impacted her cognitive functions, making it difficult for her to communicate, comprehend, or perform basic daily tasks independently and all these resulted into her being entirely dependent on others for her well-being and there is a need of dedicated care and supervision to ensure her

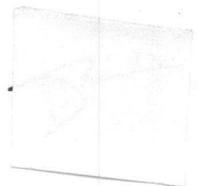
safety, hygiene, and overall health and she is unable to manage her routine activities without help and thus need to be taken care of by others.

6. Not only the above, another reason for the applicant to seek PSS is that his two elder sisters are of marriageable age, and his continuous presence at home is essential to assist his mother in finding suitable grooms for them. The process of arranging marriages involves frequent visits by the family and old-aged guardians to meet prospective matches and their families, which requires considerable effort and coordination. However, considering his mother's serious health issues, as narrated above, including being bedridden and unable to manage such responsibilities independently, the applicant's presence becomes indispensable and crucial not only in accompanying his mother but also in facilitating the necessary arrangements to fulfill these important familial obligations.

7. The applicant has also stated that consequent to the untimely demise of his father, the responsibility of looking after the ancestral house and land was assumed by the grandfather of the applicant, but now as he is also suffering from old age ailments and is unable to manage and take care

of the ancestral land, the applicant has to take responsibility for safeguarding the ancestral property and his family. The applicant states that he has ancestral land in Siwan, Motihari, Gorakhpur and Lucknow wherein the land of the applicant is lying prone to encroachment as in the states of Bihar and Uttar Pradesh, the issue of encroachment on land is a pervasive and serious problem, particularly affecting ancestral properties; the applicant's family, due to their challenging circumstances, has been unable to adequately safeguard and oversee their ancestral land, leaving it vulnerable to unauthorized occupation and, therefore, because of all these challenges, the presence of the applicant at home is crucial and, therefore, he had to seek premature separation from service.

8. In the circumstances as mentioned by the applicant as above, the applicant had submitted his first application claiming for voluntary retirement/PSS on 23.05.2023 giving all the circumstances and details about his case. The said application was rejected by the respondents vide letter dated 05.10.2023 stating that the Board of Officer (BoO) assembled in September, 2023 has not recommended the request for



grant of Premature Separation from Service. Then the applicant submitted the second application on 19.10.2023 claiming resignation from the service mentioning all the grounds for seeking premature release from the service. The same was also rejected by the respondents vide letter dated 26.03.2024 stating that the application for ROC submitted by the applicant had been considered at appropriate level and the same has not been agreed to. Hence, this OA.

9. The learned counsel for the applicant submitted that the action of the respondents is vitiated by personal nepotism leading to victimisation of the applicant in not considering the applicant's plea for grant of Premature Separation from Service which was based on undoubted material hardship and the learned counsel referring to the judgment of the Hon'ble Supreme Court in ***E.P. Royappa Vs. State of Tamil Nadu and Another [1974 SCC 43]***, stated that the respondents acted in violation of Articles 14 and 16 of the Constitution of India.

10. The learned counsel for the applicant submitted that all the aspects of the case deserve consideration by the authority dealing with the representation of the applicant, which is

expected to consider such requests on humanitarian grounds so as to redress the genuine problems of their employees/officers; and as per the observations made by the Hon'ble Apex Court in **Sanjay Jain Vs. Union of India [Civil Appeal No. 7822 of 2011]**, to resign is a right of an employee who cannot be forced to serve in case he is not willing until and unless there is some stipulation in the rules or in the terms of appointment or disciplinary proceedings are pending or contemplated which are sought to be avoided by resigning from the service and thus the applications of the applicant cannot be rejected without any justifiable explanation; and as observed by the Hon'ble Supreme Court in the case of **Central Inland Water Transport Corporation Vs. Brojo Nath Ganguly [(1986) 3 SCC 156]**, by entering into a contract of employment a person does not sign a bond of slavery and a permanent employee cannot be deprived of his right to resign and, therefore, the applicant claim for PSS are based on his genuine grounds and the respondents' refusal to grant PSS is arbitrary, unreasonable and unsustainable in law. To buttress his submission, the learned counsel placed reliance on the judgment in the case of **K.S. Bhimwal Mohs (Lt. Col.)**

Vs. Union of India & Anr. [79 (1999) DLT 297] and
Havildar Ashok Kumar Joshi Vs. Union of India and Ors.
[TA 29 of 2012].

11. The learned counsel further submitted that due to the circumstances and challenges faced by the applicant, his performance during work is being adversely affected and the respondents have failed to consider the applicant's plea objectively which resulted into causing severe mental and physical agony to the applicant and he has been compelled to proceed to continue his duty which would further aggravate his already challenging situation; that being in service, it is impossible for the applicant to support his family including his mother and her well-being; that the applicant is facing distress and insurmountable problems on his personal front which is affecting his work as well.

12. The learned counsel further submitted that the respondents have failed to consider the applicant's extremely genuine grounds for PSS and have conveniently overlooked the same in a mechanical and cryptic manner without application of mind; that the applicant requests for grant of PSS on extreme compassionate grounds and due to lack of career

prospects and supersession. The learned counsel contended that the respondents ought to have acted in accordance with the provisions governing the premature retirement as per the Regulations of the IAF whereby they should contemplate the genuine grounds of the applicant which are justifiable enough to release the applicant from the service. The learned counsel for the applicant further contended that the plea of the applicant in the present OA is within the ambit and scope of the observations made by the Hon'ble Supreme Court in **Union of India & Ors. Vs. M/s Indo-Afghan Agencies Ltd and Motilal Padampat Sugar Mills Vs. State of Uttar Pradesh.** and also by the Hon'ble Delhi High Court in **Major Rahul Shukla Vs. Union of India & Ors. [(1995) 34 DRJ 399 (DB)].** and, therefore, the learned counsel prayed that the OA deserves to be allowed.

13. *Per contra*, the learned counsel for the respondents justified the action of the respondents in rejecting the applications of the applicant stating that the requests of the applicant for PSS have duly been considered by the competent authority. The learned counsel explained the process that PSS of Category II officers [i.e., officers with less than 24 years of

service (excluding ante date) or who are not non-select] is collectively considered twice in a year (March/September) through a specially constituted independent BoO (Board of Officers) presided by an officer of the rank of Air Vice Marshal (AVM) along with one Air Cmde and four Gp Capts as members, in a collegiate manner; that PSS is granted on the merits of the case and service requirements. The learned counsel referred to Para 3 (a) of HRP 2/2018 (Annexure R1) which reads to the effect, **“.... applications for PSS from officers would be considered on merits of the case and requirements of service.....”**. Shortage of manpower in the branch within seniority bracket/rate of induction and exits/cadre management/exigencies of service/planning replacements etc. governs the service requirements; further the spirit and intent of HRP is clearly laid down in concluding para of the HR 2/2018 i.e., Para 32 which *inter-alia* stipulates: **“Seeking PSS is an important decision in the life of an officer. At the Personnel Branch, no efforts are spared to ensure that individual aspirations are favourably considered. However, service requirements/interests remain paramount and cannot be overlooked”**; and thus it

is reiterated that service requirements are paramount to organizational efficiency of the Armed Forces of the Union of India; that premature departure from the service of the Indian Air Force is not solely at will of a member of the Air Force; that in order to maintain operational efficiency/fighting potential of the IAF, limited number of officers could be granted PSS. Utility of the officer, genuine reasons, extreme compassionate grounds, courses undertaken by the officers, medical category etc. are various factors which are deliberated and taken into account by the BoO prior to grant of PSS. The learned counsel for the respondents submitted that the PSS requests made by the applicant were considered as per the rule/policy; and the first request of the applicant for grant of PSS vide application dated 23.05.2023 on Compassionate ground was considered by a duly constituted PSS BoO held in September 2023, however he was not granted PSS by the BoO based on the assessed relative low merit of his case vis-à-vis that of other applicants and this decision was intimated to the applicant vide letter No. Air HQ/C 99210/4069/PO3F dated 05.10.2023. Thereafter, the applicant's request for Resignation of Commission (ROC) vide application dated

19.10.2023 on Compassionate ground was considered by the competent authority (CAS), however, the same was rejected and the applicant was intimated about the same vide Air HQ/C 99210/4127/PO3F BM-I dated 15.02.2024 through Comd HQ (channel of command).

14. As regards the PSS BoO which scheduled to be held in March, 2025 for consideration of the applicant's second request for PSS vide application dated 25.05.2024, during the course of hearing, the learned counsel for the respondents submitted that the application's application dated 25.05.2024 for PSS was considered in the PSS BoO held in March, 2025 and the same was rejected in March, 2025 also. The learned counsel submitted that all the facts and circumstances of were taken into due cognizance while assessing his case during the PSS BoO. The applicant's allegation that actions of the respondents are vitiated by personal nepotism are baseless without any substance and out of his own imagination; that no deterioration of performance in the officer has been reported to the respondents which otherwise would be dealt with (in case if any) as per the circumstances and as per applicable AF Law; that the Regulations for the Air Force are

very clear that resignation is not the matter of right, it is the prerogative of the Government to retain or retire the officer and referred to Para 215 of the said Air Force Regulations as under:- ***“Voluntary retirement will only be permitted subject to the interests of the service. An officer who has been refused permission to retire voluntarily may, at the discretion of the government, be permitted to resign his commission.”***

15. With regard to the contention made on behalf of the applicant regarding lack of career prospects and supersession, the learned counsel for the respondents stated that the applicant's requests for grant of PSS are only on compassionate ground and he has never requested for PSS on Lack of Career Prospects and Supersession grounds and that with the service seniority of just over 5 years, the contention regarding lack of career prospects and supersession by the applicant is not justified. The learned counsel further submitted that the court cases/rulings cited by the applicant in this case are not applicable in the instant case as facts and circumstances of each case are different.

16. The learned counsel for the respondents also submitted that the applicant is presently posted to 17 Wg (Gorakhpur) for ATC duties with effect from 20.02.2023 on compassionate ground and has completed 2 years and 2 months tenure at 17 Wg. Post completion of tenure at 17 Wg (Gorakhpur), the applicant was posted to HQ AFC ANC w.e.f. 05.05.2025 as SO Adm. However, the applicant had submitted an application for cancellation of posting on compassionate grounds and the same was acceded to. Subsequently, his posting from 17 Wg to HQ AFC ANC has been cancelled. It has been also submitted that at present, the applicant stands posted to Air Force Station Kanpur for Adm duties w.e.f. 05.05.2025, closer to his hometown to meet his compassionate requirements, and that no application/ request of the applicant for posting/transfer is pending at the Air HQ.

17. In view of the above submissions, the learned counsel prayed that the OA has no merit and thus deserves to be dismissed.

ANALYSIS

18. We have heard both the learned counsel for the parties and the submissions made by them. We have also perused all

the documents and policies placed before us by both the parties.

19. The applicant was commissioned on 21.12.2019. He was in flying branch, however, during the initial training stage itself, his flying was terminated and he was transferred to the Adm branch.

20. On 23.05.2023, the applicant had filed an application under compassionate grounds to grant PSS to him. The request was based on :

- (a) The applicant is unmarried and has two unmarried elder sisters. He lost his father in 2016 and now he is the only male member in his family. His mother is suffering from Slip Disc, Hypertension, Diabetes and is presently bed-ridden since last year. Despite this, his mother is looking after his grandparents who are also bed-ridden since 2017.
- (b) Additionally, his ancestral property lies unattended at Siwan, Motihari, Gorakhpur and Lucknow wherein the lands are prone to illegal encroachment. Since, he is the only male member in family, he needs to ensure that no illegal construction has come up in his property.

- (c) The applicant has been posted to Gorakhpur but he has not been able to resolve the issues as he is not able to give adequate attention towards his mother and grandparents as his continuous present is required to look-after them. Also, he is required to assist his mother to find suitable grooms for two of his unmarried elder sisters.
- (d) The applicant is requesting for release from service after having considered all possible ways to manage the situation and having exhausted whatever remedies could have been tried including assistance from civil bureaucracy, his siblings and so on. At this stage there is no option other than quit service is available with him.

21. We have gone through the records submitted by the respondents and find that the conduct of PSS BoO is as per the provisions of PSS HRP 02/2018. PSS applications of officers below 24 years of service are clubbed together and evaluated in BsOO conducted in March and September of every year. The PSS BoO is an independent BoO, wherein members are nominated by the AOP on rotation and the composition of the BoO is :

- (i) Presiding Officer - AVM from Air HQ (in rotation).
- (ii) Comd Member - Air Cmde from any one of the Command HQ (in rotation)
- (iii) Field Member - Gp Capt from any field Unit (in rotation).
- (iv) Member (flying) - Gp Capt from any Command/Unit (in rotation).
- (v) Member (Non-Tech)- Gp Capt from any Command/Unit (in rotation)
- (vi) Medical Member - Gp Capt/Wg Cdr from DGMS (Air) Dte.
- (vi) Secretary - Gp Capt PO 3, DPO Air HQ.

22. The BoO scrutinizes all applications, taking into account previous applications, if any, and other relevant factors, in relation to all officers considered for PSS. Cases are primarily assessed based on the severity of the compassionate problems presented by the officers, which often include issues such as a parent's ill-health, conjugal life problems, etc. However, the assessment matrix also considers the seniority bracket of the officers, providing a nuanced evaluation process. Further, all cases are evaluated on a 100-mark scale by each member independently, and the total score out of 700

(sum of assessments from all seven members) is used for final merit and priority evaluation.

23. The applicant's case was considered and evaluated in the PSS BoO held in September 2023. Based on assessed relative merits of his application vis-à-vis that of the other officers, considered in the same BoO, the applicant was not granted PSS, as his relative merit standing, as per the BoO evaluation stood at 15 out of the total 16 officers from Adm branch, who applied for PSS in the same BoO and only the top three officers in the merit standing were granted PSS as per the permissible exit plan.

24. The applicant again submitted an application dated 25.05.2024 for PSS and his case was again considered for grant of PSS in the PSS BoO held in March 2025. However, based on the BoO assessment, relative merit of the applicant stood at 10 out of the total 14 officers from Adm branch, who were considered for PSS in the same BoO and only the top eight officers in the merit standing were granted PSS as per the BoO approval.

25. On denial of PSS (1st attempt in PSS BoO: Sep 2023), the applicant had filed an application for grant of Resignation of Commission (ROC) vide his application dated 19.10.2023.

26. Para 215 of Air Force Regulations (Revised Edition) 2000 authorise IAF officers to resign their commission provided they are denied opportunity to retire voluntarily (PSS). MoD/GoI letter 08(5)/78/D (MS)/D (Pen/Ser) dated 20.01.1979 and PSS HRP 02/2018 draws the concept of RoC based on similar lines. However, grant of RoC is an administrative decision and the IAF officers will have no right in law to resign from service as a matter right.

27. During the evaluation of the applicant's case for ROC, it was assessed that the organisation had made a substantial investment in his training and development, commencing from his days at the National Defence Academy (NDA) and continuing through his initial Flying training and subsequent training as an Air Traffic Control (ATC) officer. Resultantly, the officer had demonstrated exceptional performance and had achieved a high level of proficiency in his role, considering his relatively young seniority. Besides, the applicant was granted

a home zone posting, which would enable him to balance his professional responsibilities with his personal requirements.

28. The Armed Forces personnel do not have an absolute right to leave the service at their own will. The Hon'ble Supreme Court in the case of **Amit Kumar Roy Vs. Union of India and Others [(2019) 7 SCC 369]** has made it abundantly clear that any person of the Armed Forces does not have an unqualified right under Article 19(1)(g) of the Constitution to leave the service of the Air Force. Para 29 of the aforesaid judgment reads as under :

“29. We are unable to accept the submission of Mr Sankaranarayanan that the appellant had an unqualified right under Article 19(1)(g) of the Constitution to leave the service of the Air Force. The provisions of the Air Force Act, those contained in the rules and the terms of engagement of the appellant belie such an assertion. AFO 14 of 2008 emphasises aspects such as the criticality of the trade and the exigencies of service. They need to be verified and assessed before permission is granted. A person who has been enrolled as a member of the Air Force does not have an unqualified right to depart from service at his or her will during the term of engagement. Such a construction, as urged on behalf of the appellant, will seriously impinge upon manning levels and operational preparedness of the Armed Forces. With the rapid advancement of technology, particularly in its application to military operations, there has been a

reconfiguration of the human and technological requirements of a fighting force. The interests of the service are of paramount importance. A balance has been sought to be drawn between the interests of the service with situations involving requests by persons enrolled to take civilian employment. This balance is reflected in the provisions contained in the Air Force orders, in this case AFO 14 of 2008. A person enrolled cannot assert a general right to act in breach or defiance of those orders.”

29. This law laid down by the Hon'ble Supreme Court has been followed consistently not only by various Hon'ble High Courts but also by this Tribunal and its Regional Benches and it is now a well-settled proposition of law that grant of PMR to a member of the Armed Forces is not a right, it is based on various schemes and policies and the requirement of the service.

30. Keeping in view the above, the OA is dismissed being devoid of merit. It is also submitted by the respondents that the applicant has again applied for the PSS which will be considered by the PSS BoO in September 2025. The respondents are directed to consider the case of the applicant in PSS BoO scheduled to be held in September 2025 on its own merits.

31. There is no order as to costs.

Pronounced in open Court on this 19th day of
August, 2025.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[REAR ADMIRAL DHIREN VIG]
MEMBER (A)**

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