

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

**OA 5002/2024**

Sgt Anoop Kumar PS ADM Asst.	.....	Applicant
Versus		
Union of India & Ors.	.....	Respondents

For Applicant	:	Mr. Manoj Kr Gupta & Ms. Prachi Chaturvedi, Advocates
For Respondents	:	Mr. Satya Ranjan Swain with Ankush Kapoor, Advocates

**CORAM**

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

**ORDER**

Invoking jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 applicant has called in question the tenability of a detailed speaking order passed on 10.09.2024 issued by the Air Headquarters, Vayu Bhawan rejecting the claim of the applicant for grant of premature discharge from Air Force Service on compassionate ground.

2. The applicant was enrolled in the Indian Air Force on 28.03.2006. His initial engagement was for a period of 20 years and at the relevant time when he sought premature discharge from service on compassionate ground, as per the provisions of AFO 16/2008 i.e. on 31.12.2020, he was posted at 361 Transport Radar Unit as Administrative Assistant (General Duty). Records indicate

that he was married to a Staff Nurse on 09.02.2015 and it was only after five years i.e. on 17.12.2020 that he intimated the Air Force Authorities about his marriage and his spouse having gone abroad for career enhancement. He was, therefore, issued with a Show Cause Notice on 22.12.2020 and when he received the show cause notice, he applied for premature discharge on 31.12.2020. On 02.03. 2021, the Commandant HQ advised for *ex post facto* sanction for spouse employment in foreign unit. The applicant submitted his application for the same on 22.04.2021. Finally, he was awarded admonition vide order dated 24.12.2021 by the competent authority on account of delayed intimation of spouse's foreign employment while being in Air Force Service. Thereafter, on 14.01.2022, he sought discharge from service on compassionate grounds in accordance with the provisions of AFO 16/2008. This was rejected by the competent authority being devoid of merit on 27.05.2022 and aggrieved by the same applicant invoking the jurisdiction of this Tribunal filed OA No.385/2024. This Tribunal by a detailed Order passed on 09.12.2024, taking note of the reasons indicated for seeking compassionate appointment, directed the respondents to reconsider the matter in the light of Army Order 16/2008 and para 2(b) and (c) thereof. After reconsideration, the application having been rejected again the applicant is before this Tribunal.

3. Learned counsel for the applicant argued that in spite of direction of this Tribunal in earlier OA No.385/2024 on 09.12.2024, the respondents have not considered his case properly and without giving any justification have rejected his claim without application of mind and without taking note of his valid compassionate grounds indicated for the discharge. Learned counsel also pointed out that in the case of two other similarly situated officers working in the Air Force, namely, one Sgt. Don Joseph and Sgt. Roy Chacko and Sgt. Nitin Joy, they have been granted discharge on compassionate grounds and in their case also the grounds were somewhat similar but ignoring the claim of the applicant it is stated that his application has been rejected without any justification.

4. The respondents have filed a detailed counter affidavit and it is their contention that grant of premature discharge in the Air Force is not a matter of right. Premature discharge from service is granted only in extreme compassionate grounds. The initial tenure of appointment of the applicant is 20 years and considering the fact that the Indian Air Force is a technically oriented force dealing with sophisticated specialized equipments, requiring well trained and experienced manpower to handle such equipments in the case of trained professional, grant of compassionate appointment has to be

done taking note of the requirement of service, the expenditure incurred by the nation in training such a person and merely on the basis of grounds of compassion, the application for premature discharge cannot be granted.

5. The respondents in their submissions in the counter affidavit have emphasized the following factors which have to be considered for grant of premature discharge:-

*“Each airman is trained for specific role and his continuance in the service is essential not only to make good the expenditure incurred on him by the nation for his training but also to man all the required posts at all levels (from worker to supervisor level) and to achieve desired operational preparedness of the IAF at all times. It is pertinent to state that airmen are inducted in the IAF with basic educational qualification criteria of 10+2/Intermediate or equivalent. After induction, they are subjected to training in phases/Modules spanning 2 to 3 years, before they are deployed independently on operational duties. The training consists of basic Military Training followed by specific trade training, subsequent to which they are posted to field units to undergo on-job training and gain requisite skills. It is thus evident that IAF invests heavily on its workforce in moulding the airmen to meet the operational needs of IAF in specific and the security requirements of the Nation in general.”*

6. Respondents further bring to our notice the law laid down by the Hon'ble Supreme Court in the case of ***Amit Kumar Roy Vs. Union of India and Ors.*** Civil Appeal 4605-4606/2019 {2019 (7) SCC

369} and argued that premature discharge from service cannot be granted as a matter of right.

7. The respondents further invited our attention to various judgments of this Tribunal also in this regard to say that grant of premature retirement is not a matter of right and it is governed by various provisions.

8. It is further argued that the case of the applicant for grant of premature discharge was considered in detail after directions issued by this Tribunal in the earlier round of litigation and a detailed speaking order has been passed in the matter which is impugned in this OA.

9. Respondents invite our attention to para 5 of the impugned order and argued that the applicant cannot be granted the benefit. They argued that as per the AFO and the Rule governing, grant of premature discharge from service cannot be claimed as a matter of right and for administrative exigencies, the permission can be withheld. The respondents also at the time of arguments pointed out that for the present looking to the situation prevailing in the country, the service of trained Airman in the Air Force is absolutely necessary

and, therefore, merely on the ground canvassed, premature discharge cannot be granted to the applicant.

10. As far as comparison made by the applicant with regard to Sgt. Don Joseph, Sgt. Roy Chacko and Sgt. Nitin Joy are concerned, the respondents point out that they have been granted discharge based on the facts and circumstances of their cases and the difficulties expressed by them. Their cases are totally different from the case of the applicant and the applicant cannot compare his case with the said persons for grant of premature discharge.

11. We have heard learned counsel for the parties at length and find that under the AFO 04/2023 (Superseded by AFO 16/2008), grant of premature discharge is not a matter of right. Premature discharge from service is granted only on extreme compassionate grounds and after evaluating the exigencies of service and other requirements of service.

12. The issue has been considered by the Hon'ble Supreme Court in the case of *Amit Kumar Roy*(supra) and in para 15 of the said judgment, the following principles have been laid down:-

*"15. 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 14/2008 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 14/2008. A person enrolled cannot assert a general right to act in breach or defiance of those orders."(Emphasis supplied)*

13. From the aforesaid, it is clear that seeking premature discharge from Air Force service is not an unqualified right under Article 19(1)(g) of the Constitution and a balance has to be sought between the interest of service, the situation prevailing and the family difficulty etc. expressed by the individual.

14. Similar view has been taken by the Hon'ble Supreme Court in the case of *Union of India and Ors. Vs. R.P. Yadav* {(2000) 5 SCC 325} wherein also it has been clearly laid down that grant of premature discharge from service cannot be claimed as a matter of right and a member of the armed forces cannot be granted premature discharge merely by asking for it. It can be done only in cases where the claim for premature discharge is based on justifiable grounds.

15. Similar view has been taken by this Tribunal also in OA No.1376/2019 *Cpl. Neeraj Pal vs. UOI & Ors.* decided on 11.03.2020 wherein also after considering para 2(a) and (b) of AFO similar prayer on account of ailment of parents was rejected by this Tribunal.

16. Having considered the submissions made before us at length and taking note of the facts and circumstances of the case based on the legal principals as is made out, we find that the initial term of appointment of the applicant was 20 years and it is coming to an end on 26.03.2026 and, therefore, the reason indicated by the respondents in para 5(b) and 5(c) of the speaking order clearly indicate that they have taken note of the family circumstances of the applicant and the grounds canvassed by the applicant and the same has been rejected after due consideration. The respondents have taken a decision after due application of mind and after evaluating the service requirement and the grounds for compassionate consideration canvassed by the applicant and finding the service requirement to be more important and pressing in nature, have overruled his claim. This administrative decision taken by the respondents based on exigencies of service particularly of a technical force like the Indian Air Force cannot be interfered with by a



statutory body and this Tribunal cannot sit over the decision of the administrative authorities as if it is exercising original appellate jurisdiction over the decision. An administrative decision taken after reasonable consideration without any *malafide* bias or arbitrariness or in violation to statutory provisions needs no interference particularly when the security concern of the Nation and the requirement of service have been evaluated looking to the exigencies of service. Accordingly, finding no ground to interfere, the OA stands dismissed.

17. There is no order as to costs.

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

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

(JUSTICE RAJENDRA MENON)  
CHAIRPERSON

/vb/