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

13.

OA 745/2025 with MA 1123/2025

Sgt Joginder (Retd) ..... Applicant
VERSUS
Union of India and Ors. ..... Respondents

For Applicant : Mr. Ravi Kumar, Advocate
For Respondents : Mr. Sundeep Kumar, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER
17.03.2025

MA 1123/2025

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 1790 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of **UoI & Ors** Vs **Tarsem Singh (2008) 8 SCC 648** and in **Ex Sep Chain Singh Vs Union of India & Ors in Civil Appeal 22965/2017 arising out of Civil Appeal Diary no 30073/2017** and the reasons mentioned, the MA 1123/2025 is allowed despite opposition on behalf of the respondents and the delay of 1790 days in filing the OA 745/2025 is thus condoned. The MA 1123/2025 is disposed of accordingly.

OA 745/2025

The applicant vide the present OA makes the following prayers:-

"(a) To quash all the orders including para 4 of the GoI MoD Policy letter No 12(1)/2014/D(Pen/Pol)-

Part-11 dated 07 Nov 2015 (ANNEXURE A1) (impugned order), to the extent the provision contained therein which deprives the applicant, a Pre-Mature Retiree from the benefits of OROP Scheme.

(b) To direct the Respondents to extend the benefits of OROP Scheme to the applicant in the same manner as applicable to all retirees including pre mature retirees prior to issuance of the impugned policy dated 07 Nov 2015 and pay the same to the applicant as and when he be entitled for the same along with arrears.

(c) To pass such orders, direction/directions as this Hon'ble Tribunal may deem fit and proper in accordance with law."

2. Notice of the OA is issued and accepted on behalf of the respondents. The applicant submits that he was enrolled in the Indian Air Force on 14.12.2000 and was discharged from Indian Air Force on 31.03.2020 on his own request after completion of 19 years, 03 months and 18 days of service. It is further submitted by the applicant that because of his having sought premature retirement, he has been denied the OROP benefits.

3. The matter is no longer *res integra* in view of the orders dated 31.01.2025 in OA 313/2022 of this Tribunal whereby vide Paras-83 and 84 thereof, it has been directed to the effect:-

"83. Pensioners form a common category as indicated in detail hereinabove. PMR personnel who qualify for pension are also included in this general category. The pension regulations and rules applicable to PMR personnel who qualify for pension are similar to that of a regular pensioner retiring on superannuation or on conclusion of his terms of appointment. However, now by applying the policy dated 07.11.2015 with a stipulation henceforth, the prospective application would mean that a right created to PMR pensioner, prior to the issue of impugned policy is taken away in the matter of grant of benefit of OROP. This will result in, a vested right available to a PMR personnel to receive pension at

par with a regular pensioner, being taken away in the course of implementation of the OROP scheme as per impugned policy. Apart from creating a differentiation in a homogeneous class, taking away of this vested right available to a PMR personnel, violates mandate of the law laid down by the Hon'ble Supreme Court in various cases i.e. Ex-Major N.C. Singhal vs. Director General Armed Forces Medical Services (1972) 4 SCC 765, Ex. Capt. K.C. Arora and Another Vs. State of Haryana and Others (1984) 3 SCC 281 and this also makes the action of the respondents unsustainable in law.

84. Even if for the sake of argument it is taken note of that there were some difference between the aforesaid categories, but the personnel who opted for PMR forming a homogenous class; and once it is found that every person in the Army, Navy and the Air Force who seeks PMR forms a homogenous category in the matter of granting benefit of OROP, for such personnel no policy can be formulated which creates differentiation in this homogeneous class based on the date and time of their seeking PMR. The policy in question impugned before us infact bifurcates the PMR personnel into three categories; viz pre 01.07.2014 personnel, those personnel who took PMR between 01.07.2014 and 06.11.2015 and personnel who took PMR on or after 07.11.2015. Merely based on the dates as indicated hereinabove, differentiating in the same category of PMR personnel without any just cause or reason and without establishing any nexus as to for what purpose it had been done, we have no hesitation in holding that this amounts to violating the rights available to the PMR personnel under Articles 14 and 16 of the Constitution as well as hit by the principles of law laid down by the Supreme Court in the matter of fixing the cut off date and creating differentiation in a homogeneous class in terms of the judgment of D.S. Nakara (supra) and the law consistently laid down thereinafter and, therefore, we hold that the provisions contained in para 4 of the policy letter dated 07.11.2015 is discriminatory in nature, violates Article 14 of the Constitution and, therefore, is unsustainable in law and cannot be implemented and we strike it down and direct that in the matter of grant of OROP benefit to PMR personnel, they be treated uniformly and the benefit of the scheme of OROP be granted to them without any discrimination in the matter of extending the benefit to certain persons only and excluding

others like the applicants on the basis of fixing cut off dates as indicated in this order. The OAs are allowed and disposed of without any order as to costs."

4. In view of the judgment of the Hon'ble Supreme Court in Civil Appeal 1943/2022 in ***Lt Col Suprita Chandel vs. UOI & Ors.*** whereby vide Paras-14 and 15 thereof, it has been observed to the effect:-

"14. It is a well settled principle of law that where a citizen 9 aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. [See Amrit Lal Berry vs. Collector of Central Excise, New Delhi and Others, (1975) 4 SCC 714]

15. In K.I. Shephard and Others vs. Union of India and Others, (1987) 4 SCC 431, this Court while reinforcing the above principle held as under:-

> *"19. The writ petitions and the appeals must succeed. We set aside the impugned judgments of the Single Judge and Division Bench of the Kerala High Court and direct that each of the three transferee banks should take over the excluded employees on the same terms and conditions of employment under the respective banking companies prior to amalgamation. The employees would be entitled to the benefit of continuity of service for all purposes including salary and perks throughout the period. We leave it open to the transferee banks to take such action as they consider proper against these employees in accordance with law. Some of the excluded employees have not come to court. There is no justification to penalise them for not having litigated. They too shall be entitled to the same benefits as the petitioners. ...."*
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> *(Emphasis Supplied)",*

all persons aggrieved similarly situated may not litigate on the same issue and would be entitled to the grant of the benefits of which have already been extended to others similarly situated .

5. In view thereof, the OA 745/2025 is disposed of with directions to the respondents to grant the pensionary benefits with the benefits of OROP in terms and to the extent as directed vide order dated 31.01.2025 in OA 313/2022 by the AFT(PB), New Delhi, subject to verification of the date of discharge and nature of discharge, being due to premature voluntary retirement of the applicant.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)

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