

B

COURT NO. 3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA 1430/2018

Ex Chear Sudhir Kumar Sharma and Ors. Applicant
Versus
Union of India and Ors. Respondents

For Applicant : Mr. V.S. Kadian, Advocate
For Respondents : Mr. Shyam Narayan, Advocate

CORAM

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

Dated: 15th October, 2025

ORDER

Ex Chear Sudhir Kumar Sharma and others, the applicants
(36 in number) have filed this OA seeking the following
reliefs:

- (i) Direct the respondents to grant service pension to the applicants by notionally treating them in service till 15 years; and/or
- (ii) Direct the respondents to grant special pension/ pro-rata pension to the applicants; and/or
- (iii) Direct the respondents to issue Ex-Servicemen Contributory Health Scheme (ECHS) Card for medical treatment; and/or
- (iv) Direct the respondents to issue Medical Entitlement Certificate for their medical attendance in service hospitals; and/or

- (v) Any other relief which this Tribunal may deem fit and proper I the facts and circumstances of the case.

2. It has been brought out by the Applicant's that the Direct Entry Diploma Holders (DEDH) Scheme was introduced in 1999 with an initial engagement of ten years. The first batch of DEDH Artificers joined in 1999 and the last in 2011, totalling 24 batches. Being diploma holders, the applicants were recruited under this scheme and the conditions for further extension, after completion of the initial engagement, were laid down in Navy Order 02/2007. On 21st November, 2006, the Navy issued a Policy for re-engagement of DEDH Sailors for an additional period of five years. It is the contention of the applicant that the said policy was not circulated to lower formations. Had it been communicated, the applicants would have opted for re-engagement to complete 15 years of qualifying service to be eligible for pension. Instead, having completed ten years, they were released, and thus discharged as non-pensioners. On discharge, they were given documents and terminal benefits such as Discharge Book, IN 271 extract, Sea Service Extract, Service Gratuity and DCRG, AFPPF balance, NGIF

survival benefit and Equivalent Civil Trade Certificate (NCO Code). The applicants submitted a representation on 5th November, 2016 seeking pension, ECHS facility, leave encashment and other ex-servicemen benefits, citing anomalies in their treatment. No action has been taken by the respondents on their representation, hence this OA.

3. Mr. V.S. Kadian, learned counsel for the applicants, further submitted that the respondents have caused grave and irreparable loss by denying pensionary and retiral benefits to the applicants. He contended that the action is arbitrary, discriminatory, unconstitutional and violative of Article 14 of the Constitution of India. Referring to Navy Order 02/07 regarding re-engagement of sailors (**Annexure A3**), he pointed out that it lays down conditions for extension of service after completion of the initial term of engagement. Para 9 specifically stipulates that Artificer Cadre Sailors are to be governed by separate re-engagement norms in force from time to time. The applicants, though DEDH, after completing their initial term of 10 years, were entitled to the same consideration. In support of his submissions, reliance is placed on the judgment of the Hon'ble Supreme Court in

the case of Ved Prakash Vs. Union of India and Ors. [(2017) 1 SCC 783), where it was held that denial of full five years' re-engagement, despite eligibility, was improper and directed notional addition of service to complete 15 years, thereby entitling the sailor to the benefit of pension. He argued that the same principle applies in the present case as the applicants were denied the benefit of re-engagement under the policy, which was never disseminated to them. It was further submitted that in the absence of certainty of extension, as contemplated in Para 9(c) of **Annexure A3**, the applicants sought No Objection Certificates to seek civil employment. At the time of discharge, they were still under three years' reserve liability, available for call-up in case of war or emergency. Having rendered 10 years of service at a seminal age, they ought to have been made eligible for proportionate pension and post-retirement medical facilities. Reliance was also placed on Capt. A.N. Chopra Vs. Union of India and Ors. (OA No.372/2010, AFT, R.B., Chandigarh), wherein non-pensioner ex-servicemen were extended healthcare benefits. He, therefore, submitted that the applicants are also entitled to medical entitlement certificates

and ECHS cards. Lastly, learned counsel submitted that the applicants had legitimate expectation of extension in terms of the prevailing policy, having met all eligibility criteria and denial of such extension, without any valid reason, is discriminatory, unjustified and contrary to established principles of law.

4. Learned counsel for the applicants further relied on the Ministry of Defence letter dated 4th November 2022 issued by the Department of Ex-servicemen Welfare, D (Pension/Policy). He submitted that this policy specifically provides for grant of pro-rata pension to JCOs/ORs who are absorbed or appointed in Central Public Sector Enterprises/Undertakings on or after 6th March 1985 or in Central Autonomous Bodies on or after 31st March 1987. In such cases, notional fixation of pro-rata pension is to be carried out retrospectively in accordance with the Government letters referred therein. He emphasized that the said letter clarifies only one exception, namely that pro-rata pension shall not be admissible to those JCOs/ORs whose military service has already been counted for pensionary benefits upon absorption in CPSEs, Central Autonomous

Bodies, or PSUs. Apart from this exclusion, the intent of the policy, according to counsel, is to extend pensionary benefits on a proportionate basis to those who have rendered substantial service in the Armed Forces but could not complete the full qualifying service. He argued that, by parity of reasoning, the applicants (DEDHs) who have rendered ten years of active military service ought not to be denied similar treatment, as the beneficial scheme of pro-rata pension should be liberally interpreted to extend to them as well.

5. With regard to grant of ECHS facilities, learned counsel for the applicants placed reliance on the Ministry of Defence letter dated 07.03.2019 issued by the Department of Ex-servicemen Welfare, whereby ECHS benefits were extended to categories such as World War II Veterans, Emergency Commissioned Officers (ECOs), Short Service Commissioned Officers (SSCOs) and premature retirees. He contended that, on the same analogy, the applicants having rendered substantial service in the Navy are also entitled to similar medical benefits through ECHS.

6. Per contra, the respondents filed a detailed counter affidavit justifying their action. It was submitted that the

applicants were inducted on bond for ten years of service, with the clear stipulation that they would be released on completion of that period unless re-engaged for a further term of five years or more, which alone would make them eligible for service pension. The directives on re-engagement of DEDHs were issued by the IHQ of Ministry of Defence (Navy) on 21st November 2006 which were not the same as being referred to by the applicant and enclosed at A-3. These were issued in 2006 (R-3) over two-and-a-half years before the expiry of engagement of the first batch of DEDH sailors in 2009. Like other eligible sailors from earlier batches who opted for re-engagement and thereby earned pensionary benefits, the applicants also could have exercised this option. Instead, they submitted unwillingness for further extension, being fully aware that once such unwillingness was conveyed, any later application for re-engagement would not be entertained.

7. Mr. Shyam Narayan, learned counsel for the respondents further submitted that pension of Naval personnel is governed by the Navy (Pension) Regulations, 1964, which mandate a minimum qualifying

service of 15 years for service pension, a requirement still in force. Had the applicants given their willingness to continue as per the IHQ order issued in November 2006 (enclosed at R-3) they would have been eligible for grant of 5 years extension and thereafter would have become eligible for pension on completing 15 years service. *Ved Prakash's case* has been relied upon by the applicants for getting service pension. However, in that case the petitioner was denied re-engagement of full five years despite his willingness to be considered for re-engagement after completion of his initial term, because of which he fell short of 15 years service needed to earn pension. In the present case the applicants had themselves expressed unwillingness for re-engagement and therefore cannot claim parity.

8. With regard to ECHS, learned counsel pointed out that the scheme was introduced vide Ministry of Defence letter dated 30th December 2002 (Annexure 4). Para 2 of this letter provides that ECHS facilities are available only to ex-servicemen in receipt of pension, including disability pension or family pension. Thus, non-pensioners are not covered. As for pro-rata pension, it was argued that the Navy

(Pension) Regulations, 1964 contain no provision for grant of pro-rata pension to personnel who rendered less than 15 years' qualifying service. In support, reliance was placed on the judgments of the Delhi High Court dated 5th September 2008 in W.P. Nos. 797/2004 and 77734/2003 and the Bombay High Court dated 7th August 2007 in W.P. Nos. 1021/2007 and 1022/2007, both affirming that pro-rata pension is not admissible under the existing framework.

9. We have carefully considered the rival submissions and perused the pleadings, documents and judgments relied upon.

10. The pensionary benefits of Naval personnel are regulated by the Navy (Pension) Regulations, 1964, which form a complete code on the subject. Regulation 78 thereof categorically stipulates that no sailor shall be entitled to service pension unless he has completed a minimum of 15 years of qualifying service. This statutory mandate is still in force and has not been amended so as to reduce the qualifying service below 15 years. In the present case, it is an admitted fact that the applicants were enrolled under the

DEDH Scheme which was introduced in 1999 for an engagement of 10 years only. Upon completion of this engagement, they stood discharged, having rendered 10 years of service, which falls short of the prescribed minimum qualifying service. Thus, by operation of law, they do not acquire any vested right to service pension. It is well settled that pension is not a matter of charity or equity but a statutory right which flows only from the governing Regulations. Unless the conditions prescribed therein are fulfilled, no claim can be entertained. Courts and Tribunals cannot rewrite the Regulations or create a new class of pensioners de hors the statutory scheme. Since the applicants have not completed the statutory minimum of 15 years' qualifying service, their claim for grant of service pension is legally untenable.

11. The records placed before us also demonstrate that the directives on re-engagement of DEDH sailors were separately issued in November 2006 vide IHQ of Ministry of Defence (Navy) letter RP/0805/Policy/DEDH dated 21 November 2006 that is more than two-and-a-half years prior to the expiry of the initial engagement of the first

batch of such sailors in 2009 as the scheme for DEDH started in 1999. In fact the applicant alongwith 35 others were yet to complete their 10 years of initial engagement when the letter dated 21st November 2006 was issued. The details in this regard as provided by the respondents is as under:

Sl No.	Name	Rank	P. No.	Date of Enrolment	Date of Discharge
1.	Sudhir Kumar Sharma	EX-CHEAR	181916-Y	31 Jan 03	31 Jan 13
2.	Chandra Ballabh	Ex-AG. CHEAP	182183-B	06 Feb 04	18 Feb 14
3.	Manikanta Kumar Manda	EX. CHAA	182174-H	31 Jan 04	31 Jan 14
4.	Chintankumar Bharatkumar	EX-AA III	180497-Y	30 Apr 99	30 Apr 09
5.	Pravesh Kumar	EX-CHEAR	182002-T	31 Jan 03	31 Jan 13
6.	Prashanta Kumar Pattnayak	EX-CHEAR	181985-B	31 Jan 03	31 Jan 13
7.	Rajib Chhatait	EX-ERA 3	181994-Z	31 Jan 03	31 Jan 13
8.	P Prashanth	EX-CHAA	182050-A	01 Aug 03	31 Jul 13
9.	Vemana Venkata Kameshwara	EX-CHEAP	181471-K	03 Feb 01	28 Feb 11
10.	Ravi Kant Reddy Karri	EX-AG. CHEAP	181474-R	03 Feb 01	28 Feb 11
11.	Praveen Kumar SS	EX-CHEAA	180713-N	31 Jul 99	31 Jul 09
12.	Rama Surya Sudhakar Vuli	EX-AG CHERA	181458-F	03 Feb 01	28 Feb 11
13.	Ajay Kumar	EX-AG CHEAR	181810-F	01 Aug 02	31 Jul 12
14.	Abhishek Raj	EX-CHEAR	182225-Z	31 Jul 04	31 Jul 14

15.	Tejinder Singh	EX-CHEAP	182212-W	31 Jul 04	31 Jul 14
16.	Prashanth K	EX-CHEAP	182233-T	31 Jul 04	31 Jul 14
17.	Deepak Kumar Sharma	EX-CHAA	180419-W	30 Apr 99	30 Apr 09
18.	Shrikant Madhukar Wankhede	EX-CHAA	180431-Y	30 Apr 99	30 Apr 09
19.	Ashish Nijhawan	EX-CHAA	180980-W	05 Feb 00	28 Feb 10
20.	Nilot Pal	EX-SWA III	181967-N	31 Jan 03	31 Jan 13
21.	Manoj Muraly	EX-CHEAR	181981-W	31 Jan 03	31 Jan 13
22.	Mohit Shukla	EX-CHEAP	182215-A	31 Jul 04	31 Jul 14
23.	Ravi Kumar	EX-CHSWA	181384-N	03 Feb 01	28 Feb 11
24.	Sareesh K	EX-AG CHEAR	182146-W	31 Jan 04	31 Jan 14
25.	Pankaj Kumar Pal	EX-CHAA	180423-B	30 Apr 99	30 Apr 09
26.	Ved Prakash	EX-CHEAP	181907-A	31 Jan 03	31 Jan 13
27.	Sunit Dutt	EX-CHEAP	182040-B	31 Jul 03	31 Jul 13
28.	Shyam Veer Sharma	EX-AG. CHERA	181357-A	05 Aug 00	31 Aug 10
29.	Shaik Saleem	EX-CHEAR	181492-H	03 Feb 01	28 Feb 11
30.	Shantheevu VB	EX-CHEAR	181485-T	03 Feb 01	28 Feb 11
31.	Rakesh Kumar	EX-CHEAAR	180552-Y	30 Apr 99	30 Apr 09
32.	Prasada Reddy Guju	EX-CHEAA	181479-B	03 Feb 01	28 Feb 11
33.	Edara Krishna Reddy	EX-CHEAAR	181276-T	04 Aug 00	31 Aug 10
34.	Melvin Marbanjang	EX-EAP 3	181680-K	02 Aug 01	31 Aug 11
35.	Manoh jain	EX-CHERA	180994-A	05 Feb 00	28 Feb 10

36.	Manish Maithani	EX- CHEAAR	180504-N	30 Apr 99	30 Apr 09
-----	--------------------	---------------	----------	-----------	-----------

12. The order issued in November 2006 regarding grant of re-engagement-DEDH sailors thus provided sufficient opportunity to all these applicants to give their willingness to continue in service by exercising their option for re-engagement. As stated before and as confirmed by the respondents a large number of sailors from earlier DEDH batches exercised this option and were duly re-engaged, thereby rendering 15 years of qualifying service and becoming entitled to pensionary benefits in accordance with the Regulations.

13. These applicants, however, stand on a different footing. It is an admitted fact that all these DEDH sailors had given their unwillingness for re-engagement. The unwillingness certificate dated 28th April 2011 of the one of the applicants Shri Sudhir Kumar Sharma, Ex. CHEAR, No. 181916-Y who was enrolled in the Indian Navy on 31st January 2003 at DEDH and discharged on 31st January 2013 stated as under:

“I hereby declare that I am unwilling to undergo TTS Course and as a consequence I am ready to forego further promotions and fully understand that I would not be considered for further re-engagement.”

14. It is also seen from the record that he had also applied for issue of No Objection certificate for Civil Employment dated 28th Dec 2011 (Annexure-02), wherein he had again declared that

“I hereby declare that I am not willing to sign for further service and to be released from the service on completion of present engagement. I fully understand that this declaration is final. Any subsequent application for re-engagement will not be entertained and I will not be selected for any course in future”.

Similar unwillingness certificates (available on record as Annexure-01 (Colly)) have been given by the other 35 applicants as well.

15. Once such unwillingness was conveyed, the authorities had no obligation to reconsider or entertain any subsequent request for re-engagement. The very scheme of re-engagement is based on willingness of the individual concerned. If an individual consciously declines extension, no vested right accrues to him for further service nor can he subsequently claim that he ought to have been re-engaged. The reliance placed on the judgment of the Hon’ble Supreme Court in *Ved Prakash* (supra) is clearly misconceived. In that

case, the petitioner had been denied the full period of re-engagement despite being willing and eligible, which the Court found to be arbitrary and contrary to the governing policy. He was granted re-engagement for 2 years instead of 5 years for which he was eligible; the situation here is materially different: the applicants themselves expressed unwillingness, thereby foreclosing any consideration of their case for re-engagement.

16. Thus, the principle laid down in *Ved Prakash* has no application to the facts of the present case. Accordingly, it cannot be said that the applicants were denied re-engagement in violation of policy or that their legitimate rights were infringed. On the contrary, their own conscious choice of giving unwillingness Post issue of IHQ Minsitry of Defence (Navy) letter dated 21st November 2009 granting them option of 5 years further extension stands in the way of their present claim, and they cannot now be permitted to approbate and reprobate.

17. The applicant has also relied on orders on pro-rata pension the Navy (Pension) Regulations contain no provision for grant of pro-rata pension to sailors who did not

complete 15 years. The Ministry of Defence letter dated 04.11.2022 relied on by applicants applies only to JCOs/ORs absorbed in CPSEs/Autonomous Bodies/PSUs, which is not the case here. The High Courts of Delhi and Bombay in the judgments cited by the respondent, have also held that pro-rata pension is not admissible in the absence of statutory provision. Hence, no case for grant of pro-rata pension to the applicants is made out.

18. The ECHS scheme introduced vide MoD letter dated 30.12.2002 makes it clear that it caters only to ex-servicemen in receipt of pension, including disability/family pension. The applicants being non-pensioners are therefore not eligible. The subsequent extension of ECHS benefits in 2019 to certain specified non-pensioner categories (WW-II veterans, ECOs, SSCOs, premature retirees) does not cover the applicants' category and hence cannot be stretched to confer eligibility upon them.

19. The plea of legitimate expectation is also unsustainable. The applicants were fully aware of their bond conditions and consciously conveyed unwillingness for further engagement. Denial of pension and allied benefits is

based on statutory provisions and not on arbitrary classification. Therefore, no violation of Article 14 of the Constitution is made out.

20. In the result, none of the reliefs sought by the applicants are maintainable. In view of the above findings, the applicants have failed to establish any legal right to claim service pension, pro-rata pension or ECHS facilities.

21. The OA is, therefore, devoid of merit and is accordingly dismissed, with no order as to costs.

Pronounced in the open Court on this 15th October' 2025.

[JUSTICE NANDITA DUBEY]
MEMBER (J)

[RASIKA CHAUBE]
MEMBER (A)

/vks/