

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

**OA 613/2019 with MA 1754/2019 , 2117/2023 ,
4367/2024 , 4734/2024 & 663/2020**

**Ex Sqn Ldr Vijay Prakash F(P) Applicant
VERSUS
Union of India and Ors. Respondents**

**For Applicant : Applicant in Person
For Respondents : Mr. Satya Ranjan Swain, Advocate
Wg Cdr G.K. Sharma with
Sgt Nandlal, Legal Cell, Air Force**

CORAM

**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

ORDER

The applicant was commissioned as an Officer in the Indian Air Force on 16.12.1989 in the Flying Branch. The applicant applied for Premature Separation from Service(PSS) first time on 'Lack of Career Prospect(LCP)' grounds vide his personal application dated 04.02.2000 which was not acceded to as per averments in the counter affidavit of the respondents dated 06.09.2023, as he was due for consideration for further promotion in PB-III/2006 and it was too premature to comment

on his future career prospects. The applicant stated in his PSS application dated 04.02.2000 that he had been falling short of the mark as expected of an officer and the same had been annotated in his ARs from time to time. He also opined that the growing responsibilities as an officer were beyond his capabilities to handle. The applicant put up Resignation of Commission(RoC) vide his application dated 20.10.2000. Whilst, his RoC application was in process, he forwarded a representation to the President of India for early decision on his RoC application. His RoC was approved by the Competent Authority w.e.f. 30.09.2001. However, his application for PR was rejected since it was too premature to comment on his future career prospects.

2. Apart from the instant OA, the other writ petitions and MAs filed by the applicant are detailed as under:-

Sr. no.	WP(C) filed by the applicant before Hon'ble Supreme Court, Hon'ble High Court of Delhi and application filed before this Tribunal	Date of disposal
1.	Special Leave to Appeal(Civil) no.(s) 26298/2011 in Ex Sqn Ldr	14.11.2011

	Vijay Prakash vs. UOI & Ors.	
2.	CWP 2449/2000 in Squadron leader Vijay Prakash vs. UOI & Ors.	26.09.2001
3.	WP(C) 7781/2009 in Vijay Prakash vs. UOI & Ors. renumbered as TA 461/2009 of the AFT(PB), New Delhi	26.03.2009
4.	WP(C) 803/2009 in Vijay Prakash vs. UOI & Ors.	01.07.2009 (not germane to the present <i>lis</i> as vide the said writ petition dismissed vide order dated 01.07.2009 of the Hon'ble High Court of Delhi, the prayers of the applicant sought disclosure of the personal information in the possession of the Indian Air Force in relation to a private dispute with his wife.)
5.	WP(C) 9900/2009 in Vijay Prakash vs. UOI & Ors.	08.07.2009
6.	TA 461/2009 bearing previous no. WP(C) 7781/2009 before Hon'ble High Court of Delhi in Ex Sqn Ldr Vijay Prakash vs. UOI & Ors.	25.05.2011

3. In the instant OA, the applicant has filed the following MAs as under:-

Sr. no.	MAs No	Date of disposal
1.	MA 2016/2019(restoration of MA 1754/2019)	19.08.2019
2.	MA 1754/2019	Today
3.	Prayer-(d) in MA 663/2020	Today
4.	MA 858/2022 and MA 857/2022 in OA 613/2019	17.01.2023
5.	MA 2117/2023	Today
6.	MA 3467/2024	27.08.2024
7.	MA 4367/2024	Today
8.	MA 4734/2024	Deemed disposal vide Para-4 of order dated 20.02.2025
9.	MA 4801/2024	Today

4. The applicant Ex Sqn Ldr Vijay Prakash F(P) vide the present OA filed on 28.03.2019 makes the following prayers:

“A. That all aforesaid officers be legally awarded their status as Dismissed from service with withdrawal of their illegal promotions and retirement benefits including Pension as they ought to have been Dismissed from service with No retirement benefits post inquiry stage itself of Aircrash involving loss of 20 lives and Aircraft damaged as result of deliberate faulty malpractices managed at all levels.

B. That Similar action of Dismissal and withdrawal of Retirement benefits must

be initiated against AOP and Dir JAG at that Time for intentionally managing such faulty Promotional Policies, fraud Maintenance policies etc against National and Service interest.

C. That reports of all Court of Inquires hereafter be made public hereafter in order to bring in Transparency and Fairness in such matters as such unscrupulous officers get away with practically No punishment whatsoever owing to their seniority.

D. That declaration of all assets gained by all officers above Rank of Group Captain and equivalent ranks and above in Army, Air Force and Navy be made public to ensure avoidance of amassing illegal, wealth by virtue of their seniority, as same being done in other Govt. Depts including by High Court and Supreme Court judges.

E. That raising of Psychiatric evaluation AFMSF-10 whimsically with motive to suppress voices against corrupt practices within the system be made punishable act of Imprisonment of Three Years and compensation of Min. 2 Lacs to person affected along with his seeking liberty to approach Courts and take legal remedies thereof.

F. That Petitioner be duly compensated Financially for being subjected to such illegal, harassment and Victimisation with his career being destroyed forever leading to his seeking Premature Retirement and Resignation thereafter.

G. That in case petitioner is physically harmed or killed in such managed accident, then all such aforesaid officers with then AOP and Dir JAG along with present Dir JAG be held

responsible for my murder with charged with Sec 302 IPC, read with 34 IPC and Sec 12-O IPC.”

MA 1754/2019

5. The OA as instituted on 28.03.2019 was filed by the applicant against the UOI through the Chief Secretary, Ministry of Defence and the Chief of Air Staff arrayed as respondent nos. 1 and 2. Pursuant to proceedings dated 10.05.2019 whereby it has been observed that the applicant had sought dismissal and withdrawal of certain benefits of officers without impleading any of them, the applicant had submitted that he would file an appropriate application in relation thereto. MA 1754/2019 was filed on 02.07.2019 with an amended Memo of Parties impleading respondent nos. 3 to 7. Vide the said application MA 1754/2019, the prayers made by the applicant were to the effect:-

“a) Pass the Orders for inclusion of names of officers involved in said aircrash on 07 Mar 1999 against whom Legal action is sought as stated in OA 613/2019 and names of such Officers have been included

in the Memo of parties of this amended application as Respondents 3-7.

b) pass Orders for serving copies of the Original OA 613/2019 and copies of this amended application to such concerned officers shown as respondents 3-7 through Air HQ as the current addresses and other Retirement facilities are being extended by AIR HQ till date to such officers shown as respondents 3-7.

c) pass the Orders of taking in account additional factors and relief as stated in this amended application to be read along with relief as stated in OA 613/2019 with grounds mentioned therein

d) pass any order/ Orders in the interest of Justice.”

6. Vide order dated 23.07.2019, in view of the non-representation on behalf of the applicant, the said MA 1754/2019 with its accompanying application MA 1755/2019 seeking condonation of delay in filing the said application MA 1754/2019 was dismissed for non-prosecution.

7. Vide order dated 19.08.2019 in MA 2016/2019, MA 1754/2019 was restored to its original number and file. Vide order dated 19.08.2019, it was directed that the matter be renotified for consideration of the aspect of the maintainability of the OA. Likewise vide orders dated 19.08.2019, 07.01.2020

and 08.09.2020, the applicant was directed to address on the maintainability of the OA.

8. Vide order dated 17.04.2023 in relation to the prayers made in OA 613/2019 already adverted to hereinabove in Para-1, it was observed vide Para-3 thereof to the effect:-

“3. On perusal of the prayer clauses, it is seen that the applicant has made certain allegations against other officers. However, in the OA none of these officers have been impleaded as respondents. The applicant, however, clarified that he had filed MA 1754/2019, in which the amended memo of parties including these officers had been filed. On perusal of order dated 23rd July, 2019 in this MA, it is seen that the same has been dismissed for non-prosecution. Thus, the allegations against these officers without impleading them do not survive.”

9. The prayers in MA 663/2020 filed by the applicant on 28.02.2020 read to the effect:-

“a) take action of reverting Illegal promotions with Dismissal without Retirement benefits, in view of loss of 20 Lives and MultiCrore aircraft as result of fraud Maintenance Practices, Fraud Promotional Policies and Fraud Pilot Exams practiced by Respondents 3-7

prima facie with full and active support by Air HQ hence Legal action also against AOP and Dir JAG at the prevailing time to restore fair and transparent practices in the National and Service Interest and in the interest of Justice. Additionally Respondents 3-7 be charged under Section 304a and 121 and be punished with 8 Years of Tough Imprisonment for their collective act resulting in loss of 20 Lives and Aircraft being destroyed.

b) this present OA 613/2019 with all associated MAs be not construed as Petition under RTA 2007 in any manner and all legal discussions and legal actions be confined to the Points raised in Main OA 613/2019 with initial prayers, with all MAs, including this MA para 1, 2 the legality of present petition with all associated MAs falling within purview of Section 3 subpara (o), subpara of Prayers be truncated related to being misinterpreted as those under RTI Act.

c) this Honble Court may also kindly specify the reasons in Final Disposal Order for not taking actions as prayed jointly in OA 613/2019 along with all MAs filed as part of petition specially in view of loss of 20 precious lives and Multi Crore aircraft being destroyed because of illegal actions on part of Respondents 3-7 well supported by Air HQ, so that all issues prayed herein be taken up before Supreme Court seeking explanation from this Honble Court on view taken.

d) Applicant Petitioner be reinducted back in Service preserving his Seniority and Pay Structure with Final

adjudication of this OA along with all attendant MAs filed herein at the earliest.”

10. Vide the said order dated 17.04.2023 in OA 613/2019, it was observed vide Paras-5,6,7 and 8 thereof to the effect:-

“5. Having heard the applicant and having perused the prayer clauses, we find that except for prayer (d) as mentioned in the MA 663/2020, none of the other prayers are maintainable. The prayer (d) reads as under:

“(d) Applicant petitioner be reinducted back in service preserving his seniority and pay structure with final adjudication of this OA along with all attendant MAs filed herein at the earliest.”

6. Issue notice to the respondents with respect to prayer clause (d) in MA 663/2020. Mr. Sagar Mehlawat, learned counsel appearing on behalf of the respondents, accepts notice. Respondents to file a detailed counter affidavit to include details pertaining to the circumstances leading to the resignation of the applicant; the examination and disposal of his statutory complaint and payment of terminal benefits.

7. The applicant is granted liberty to file additional documents in support of prayer (d) of the MA 663/2020 by way of an affidavit after serving a copy thereof on the learned counsel for the respondents.

8. Let counter affidavit be filed within four weeks. Rejoinder, if any, may be filed within two weeks thereafter.”

11. Though a submission was made on 20.02.2025, on behalf of the respondents that vide order dated 17.04.2023, it had been expressly observed vide Para-3 thereof that MA 1754/2019 was dismissed for non-prosecution and that the application filed by the applicant for impleading other officers as per the said proceedings did not survive, in view of the record which indicates that MA 1754/2019 stood restored vide Para-3 order dated 19.08.2019, it has been observed in the order dated 17.04.2023 that MA 1754/2019 stood restored vide order dated 19.08.2019.

12. Vide order dated 01.05.2019, it was considered essential that MA 1754/2019 and OA 613/2019 be disposed of together. Though the counter affidavit filed by the respondents on 06.09.2023 apparently does not relate to the prayers as made in the OA and the response filed by the respondents is confined to the prayer-(d) in MA 663/2020, taking into account the factum that the prayers other than prayer-(d) in MA 663/2020

were held to be not maintainable vide Para-5 of the order dated 17.04.2023, as the prayer(a) in MA 663/2020 is to the effect:-

“a) take action of reverting Illegal promotions with Dismissal without Retirement benefits, in view of loss of 20 Lives and MultiCrore aircraft as result of fraud Maintenance Practices, Fraud Promotional Policies and Fraud Pilot Exams practiced by Respondents 3-7 prima facie with full and active support by Air HQ hence Legal action also against AOP and Dir JAG at the prevailing time to restore fair and transparent practices in the National and Service Interest and in the interest of Justice. Additionally Respondents 3-7 be charged under Section 304a and 121 and be punished with 8 Years of Tough Imprisonment for their collective act resulting in loss of 20 Lives and Aircraft being destroyed.”

which in sum and substance related to the prayers made in prayer-8(A),(B),(C) of the OA, the said prayers are held to be not maintainable as the instant OA 613/2019 falls within the ambit of Public Interest Litigation which does not fall within the contours of Section-3(o) and Section-14 and 15 of the AFT Act, 2007. **The prayers (a),(b) and (c) of the application MA 663/2020 are thus dismissed. The consideration of the prayer-(d) of MA 663/2020 is however deliberated**

hereinafter in this order in Para-18. Significantly, even though the applicant filed MA 1754/2019 seeking prayers therein to the effect as reproduced in Para-5 hereinabove, the said application also relates to action to be taken in terms of prayer-8(A) to (C) of the OA already held to be not maintainable vide order dated 17.04.2023 in OA 613/2019 as observed in Para- 10 hereinabove. **MA 1754/2019 is thus dismissed.**

13. Further, it is also essential to observe that the records of File No. Air HQ/C 21901/PSS/20513/PO-3(F) dated 30.06.2000 produced by the respondents on 05.01.2026, indicate that all those Officers of the Indian Air Force against whom the applicant sought action in terms of MA 1754/2019 had superannuated or taken PSS and three of the five officers had been given severe displeasure by the AOC-in-C in June,2000.

MA 4801/2024

14. MA 4801/2024 was filed by the applicant on 25.10.2024 with the following prayers:-

“a) Additional cost of Rs 3,00,000/= (three Lakhs) be imposed on Respondents for Non Submissions of parawise reply on Statutory Complaint as directed vide order 17/4/2023 and 05/7/2024 and NO reply on MA 2117/2023, Present case be decided with all facts mentioned in Main OA, MA 663/2020 taken with Rejoinder and MA 4367/2024 with annexures and pending Differential amount in view of Amicus Curie report be paid to Applicant as per Order Dt 04 Sep 2024 with applicable interest rates. DSOP funds clarification with Payslip of Air Force Rep be summoned to expose another fraud managed by Respondents and Balance Amount calculated and be paid with interest.

b) Any delay sought by Respondents be awarded with cost of 50,000/= on each occasion, as also shown by various other courts, with eventual recovery of loss of pay of Air Cmde Rank be paid to Applicant for each month of intentional delay caused by Respondents ever since inception of this case before this Tribunal. Applicant be inducted back in service in Rank at par with his batchmates immediately, in pursuit of Justice denied purposely so far.

c) Award Life imprisonment to Respondents 3-7 in view of loss of 20 innocent lives and Loss of Multicrore aircraft in accident 07 Mar 1999 for their complete disregard of National and Service interest in blind pursuance of selfish reason of polishing ACRs to seek promotion. Additionally Respondents 3-7 Pension and Retirement benefits be stopped with immediate effect with recovery of entire illegal payment ever

since aircrash 07 Mar 1999. ACRs of Respondents 3-7 for year 1999 & 2000 be sought along with ACR of applicant for entire service period 1989-2001 for affirmation of Fraud Promotion Policy, Fraud Pilot Exams and Fraud Maintenance practices prevalent in Air Force.

d) Take cognizance of fact of any illegal means likely to resorted by Respondents and Air HQ with their counsels to deny personal appearance of applicant before this court to contest his case as Petitioner In Person, and also this case be decided on merits Immediately in any such eventuality without Dismissing same as Default in accordance with section 16 and section 25, as per Practising rules of AFT Act 2008 securing ends of justice.

e) Any other Order as deemed fit and proper in facts and circumstances of the case.”

15. Though vide order dated 20.02.2025 when MA 4734/2024 was taken up vide which the respondents had sought waiver of costs imposed on them vide order dated **09.10.2024 which costs were waived vide order dated 20.02.2025 and consequentially it was MA 4734/2024 which was disposed of, vide an typographical error the number of the MA disposed of vide para-4 on 20.02.2025 has been mentioned as MA 4801/2024 which ought to read**

as MA 4734/2024 and the proceedings of the date 20.02.2025 are rectified accordingly. Thus though MA 4801/2024 is pending, the prayers made therein are being considered to the extent as confined to consideration of the prayer clause-(d) in MA 663/2020 whereby the applicant had sought re-induction back in service, preserving his seniority and pay structure, the final adjudication of the OA and all attended MAs. As has been observed, the prayers 8(A),(B) and (C) made vide the instant OA have been dismissed as observed vide Para-12 hereinabove.

16. For consideration of the prayers made by the applicant seeking re-induction back in service with preservation of his seniority, it is essential to observe that vide order dated 17.04.2023, it was directed vide Paras-5,6,7 and 8 as directed therein as reproduced hereinabove in Para no-10.

17. Vide the counter affidavit filed on 06.09.2023, the respondents submitted that the applicant had put up Resignation of Commission vide his application dated 20.10.2000 which was approved by the competent authority

w.e.f. 30.09.2001. Vide his rejoinder affidavit filed on 04.10.2023, the applicant does not refute the resignation but submits that it was a forced resignation and that submissions to this effect were made by the applicant and it was submitted by the applicant that WP(C) 2449/2000 had been filed by him dated 08.05.2000 before the Hon'ble High Court of Delhi wherein vide the said writ petition, the applicant had prayed for directions to the respondents to consider his case for premature retirement and to release him from service with consequential benefits. In terms of proceedings dated 05.07.2024 in the present OA, the copy of order dated 26.09.2001 of the Hon'ble High Court of Delhi in WP(C) 2449/2000 was placed on record by the Registry of this Tribunal. The order dated 26.09.2001 of the Hon'ble High Court of Delhi in said writ petition WP(C) 2449/2000 as also submitted by the respondents reads as under:-

“ The present writ petition was filed by the petitioner seeking for a direction to the respondents to consider the case of the petitioner for his premature retirement and thereafter

release from the service with consequential benefits.

The request of the petitioner for the premature retirement was accepted by the respondents on 07.08.2001. The said communication states that the government the Resignation of Commission of the petitioner from service at his own request with non effective benefits as due to him. The said resignation from service would be effective from 30.09.2001

Counsel appearing for the respondents, on instructions received from the respondents states that whatever amount is found due and payable to the petitioner in accordance with law, the same shall be paid, which is also indicated in the communication dated 07.08.2001. The said communication states that the request of the petitioner for resignation of commission had been accepted with non effective benefits as due to him.

In the light of the aforesaid observations, the writ petition stands disposed of as Infructuous. Whatever benefit the petitioner is entitled to, pursuant to the aforesaid order, the same shall be paid to the petitioner as early as possible, preferably within a period of Six months. In case the petitioner has any grievances for non payment of the said benefits even after expiry of six months, it shall be open to the petitioner to approach this court.”

18. The said order of the Hon'ble High Court of Delhi dated 26.09.2001 in the WP(C) 2449/2000 specifically

observes that the Government had approved the resignation of commission of the applicant herein from service at his own request with non effective benefits due to him which resignation was to be to be effected from 30.09.2001. In view of the acceptance of the resignation of commission of the applicant by the respondents effective from 30.09.2001, the prayers made by the applicant for being reinducted back in service, preserving his seniority and pay structure as prayed vide prayer-(d) in MA 663/2020 in OA 613/2019 cannot be allowed, and the same is dismissed.

19. However, in as much as vide order dated 17.04.2023 vide Para-6, it had been directed to the effect:-

“6. Issue notice to the respondents with respect to prayer clause (d) in MA 663/2020. Mr. Sagar Mehlawat, learned counsel appearing on behalf of the respondents, accepts notice. Respondents to file a detailed counter affidavit to include details pertaining to the circumstances leading to the resignation of the applicant; the examination and disposal of his statutory complaint and payment of terminal benefits.”,-

it is considered essential to advert to the submissions that have been made by the respondents in the counter affidavit filed on 06.09.2023 which state in the preliminary submissions vide Paras-6 to 10 thereof to the effect:-

“6. That brief facts leading to the case are that the Applicant was commissioned as an Officer in the Indian Air Force on 16.12.1989 in the flying branch.

7. That the applicant applied for Premature Separation from Service(PSS) first time on ‘Lack of Career Prospect (LCP)’ grounds vide his personal application dated 04.02.2000 which was not acceded to as he was due for further promotion in PB-III/2006 and it was too premature to comment on his future career prospects.

8. That the Applicant put up Resignation of Commission(RoC) vide his application dated 20.10.2000. Meanwhile, his RoC application was in process at this HQ, he forwarded a representation to the President of India for early decision on his RoC application. His RoC was approved by the Competent Authority w.e.f. 30.09.2001.

9. That the Applicant had stated in his PSS application dated 04.02.2000 that he had been falling short of the mark as expected of an officer and the same has been annotated in his ARs from time to time. He also opined that the growing responsibilities as an officer were beyond his capabilities to handle. However, his application for PR was rejected since it was too premature to comment on his

future career prospects. Also, even before his application for PR could be processed at the HQ, the Applicant had filed a writ petition in the Hon'ble Delhi High Court for a speedy grant of PSS. On rejection of his PSS application, he immediately applied for RoC. All these were obvious indications that he was desperate to leave the service because of his own shortcomings which he had accepted himself in the PSS application dated 04.02.2000. It was the Applicant who demonstrated a dire need to leave the service. At the relevant time, the Indian Air Force rejected his application of PSS as it was too early to comment on the future prospects of the Applicant. The Applicant also never waited to at least see an overview of his future prospects in the Indian Air Force.

10. The Applicant's contention that he was compelled to resign is clearly against the record and incorrect since he himself opted for resignation of commission. The Applicant is clearly approbating and reprobating. At this belated stage, he cannot be reinstated.”

20. It was further stated in the reply on merits by the respondents vide Para-11 thereof to the effect:-

“The applicant resigned from service at his own request. There is no such provision in the Indian Air Force for re-inducting back officers in service, post grant of PSS/RoC at their own request.”

21. It was also submitted by the respondents vide Para-12(c) and (d) to the effect:-

“(c) That whilst his application for RoC was in process at Air HQ (VB), the Applicant represented to the Hon'ble President of India (also addressed to the Defence Minister) vide his application dated 06.12.2000 to accept his RoC application dated 20.10.2000 (Annexure R-2) at the earliest. However, since his application dated 06.12.2000 for RoC was in process at Air HQ and was being recommended for approval, the Applicant's basic grievance to the President for RoC was put to rest and his RoC was approved w.e.f 30.09.2001. A Copy of the Applicant's ROC disposal is annexed herewith ANNEXURE R-4.

(d) That the Applicant represented to the President of India (Also addressed to the Defence Minister and the CAS) vide his representation dated 21.09.2001 to reconsider his release as PR instead of RoC citing reasons that he had been granted RoC thus denying him the privileges of retirement benefits. The Applicant's representation does not merit consideration since he was granted RoC on his own accord. Hence, his representation was rejected by the Competent Authority. The Copy of representation dated 21.09.2001 to the President of India submitted by the Applicant is annexed herewith ANNEXURE R-5.”

22. The statutory complaint filed by the applicant vide his application dated 21.11.2001 as averred in the counter affidavit of the respondents filed on 06.09.2023 was rejected by the competent authority. The respondents further averred vide Para-(f) of the Reply on Merits in the counter affidavit to the effect:-

“(f) That the Applicant represented to the CAS vide his letter dated 09.05.2002 (Complaint dated 06.05.2020) which was also addressed to the Hon'ble President of India and Defence Secretary, in response to the reasoned reply sent to him on his earlier representation. The Applicant's representation was devoid of any substance. In general, the Applicant refuted all the clarifications given in the reasoned reply denying the contents of each of them. In this representation, he also expressed his concern over the accident of 07.03.1999 involving an AN-32 Aircraft of PTS, as issue that was also emphasized upon in his earlier petition in the Court. In his opinion, the accident was caused due to the negligence of the few who were never brought to book. The allegation, however, was replied to in the Counter Affidavit filed in the Hon'ble court. The said court case was dismissed by the Hon'ble court. The Applicant was representing time and again and the crux of all his representations was same. All his grievances were addressed by a reasoned reply from the Competent

Authority. He, however, continues to express his dissatisfaction even though his request for RoC was approved and he was paid all the NE benefits that accrue to him as per the policies in vogue at that time. Hence, his representation was rejected stating that all his earlier representations and statutory complaints had been responded to and no fresh issues were raised by the Applicant. The copy of the Applicant's representation to the CAS and the Defence Secretary dated 09.05.2002 are annexed herewith as Annexure A-7(Colly).

23. It was further submitted vide Para-(g) of the counter affidavit of the respondents to the effect:-

“(g) That the Applicant again forwarded representation dated 18.11.2002 to the CAS alleging deliberate sabotage of his career, fraudulent divergence of the Hon'ble High Court of Delhi verdict to deny him full NE benefits and non-issue of Retired Officer's Identity Card and Flight Safety Certificate to facilitate his rehabilitation in the civil employment. His representation was rejected by the CAS. However, the point whether he is entitled for Ex-servicemen status was deliberated in detail as per policy in vogue. MoD, in his case, clarified as per DoPT letter No. 36034/5-85-Estt(SCT) dated 14.04.1987 stating it was evident that the said ex-officer on the date of his resignation did not have the qualifying service for the Pension hence he did not receive pension. But he

nevertheless was qualified for the grant of Gratuity, which was paid to him. Further, as the said ex-officer was a "Permanent Commission" officer, therefore, he cannot be said to have a specific term of engagement unlike SSC officers (5 10 years), Airmen (20 years) etc. The Applicant was neither released/retired from the service with pension nor has he been released on completion of specific term of engagement with gratuity. In these circumstances, he cannot be called an Ex-servicemen' and the status of Ex-Serviceman cannot be granted to the Applicant. The DoPT letter No. 36034/5-85-Estt(SCT) dated 14.04.1987 is annexed herewith as ANNEXURE R-8."

24. Vide order dated 01.12.2025, the respondents were directed to explain the action taken on the statutory complaint made by the applicant as received by the respondents on 23.11.2001 and to produce all original records in relation thereto. On 05.01.2026 the respondents produced the records of File No. Air HQ/C 21901/PSS/20513/PO-3(F) dated 30.06.2000 in relation to PSS Officers Sqn Ldr Vijay Prakash(20153) F(P) to submit to the effect that the applicant's statutory complaint dated 21.11.2001 has been rejected as per the Note-11, Note-23 and Note-27 on the records of the said file,

though the document with signatures of the competent authority rejecting the said statutory complaint has not been traced out. On 05.01.2026, the respondents submitted copy of order dated 08.07.2009 of the Hon'ble Division Bench of the High Court of Delhi in WP(C) 9900/2009 filed by the applicant whereby it was observed to the effect:-

“The petitioner who is appearing in person is absent.

We have gone through the petition and we do not find any merit in this petition. No relief can be granted in this Public Interest Litigation. Accordingly, petition is dismissed.”

and thus it is indicated thereby that the said WP(C) 9900/2009 had been dismissed.

25. The copy of the order dated 07.10.2009 filed by the applicant indicates that CM Nos. 12434/2009 seeking condonation of delay and CM 12435/2009 seeking restoration of WP(C) 9900/2009 dismissed on 08.07.2009 were both dismissed vide order dated 07.10.2009 of the Hon'ble Division Bench of the High Court of Delhi.

26. The said records produced by the respondents were taken on record on 05.01.2026 and directed to be placed in a sealed cover. The respondents also submit that as per the records produced by them the communication of the rejection of the said statutory complaint dated 21.11.2001 was also made to the applicant but the letter in relation thereto has not been traced out. The said records have been perused by us.

27. It is however essential to observe that prior to institution of the present OA 613/2019, the applicant had also filed WP(C) 7781/2009 on 24.03.2009 before the Hon'ble High Court of Delhi.

28. Vide order dated 26.03.2009, it was directed by the Hon'ble High Court of Delhi to the effect:-

“1. By way of prayer (iii) in the writ petition, the applicant has complained that the matters relating to the inquiry into the air crash on 7th March, 1999 at Delhi have been hushed up. It is further contended that the persons who were indicted in the Court of Inquiry had been illegally promoted by way of abuse of power resulting in loss of crores of rupees and seventeen lives to the nation. The petitioner who appears in person

submits that he has sought prayer (iii) in public interest. As the prayer (i) & (ii) do not concern public interest, the same deserve to be separated from the other prayers made in this writ petition. It is directed accordingly.

2 The petitioner's prayer in public interest would not be within the Jurisdiction of this Court. The prayer (iii) in the writ petition is accordingly segregated and liberty is given to the petitioner to file a separate writ petition seeking the same prayer.

3. So far as the prayer for seeking details of the amounts disbursed to him and details of the applicable rules and policies are concerned. the applicant relies on communication dated 7th January 2009. A perusal of this communication placed before us shows that the part of the information related to the CPIO, Jt. CDA (AF) Subroto Park, New Delhi has been directed to be communicated to the applicant.

4. At request of the petitioner, the respondents are directed to also furnish the copies of the relevant rules and policies which have been mentioned in the communicated dated 7th January 2009. Let the same be collected by the petitioner from the chamber no. 141 of the learned counsel for the respondents against receipt of collection.

5. Keeping in view the grievance of the petitioner and request made by him, we appoint Col. C.M. Khanna, Advocate as an amicus curiae on behalf of the petitioner to assist the consideration of the matter.

List on 6th July, 2009.”

29. The proceedings in the said WP(C) 7781/2009 were transferred to this Tribunal in terms of the Armed Forces Tribunal Act, 2007 vide order dated 07.10.2009. **The said WP(C) 7781/2009 thus on renumbering bore TA 461/2009 before this Tribunal** and vide order dated 25.05.2011, the said lis was disposed of with observations vide Paras-13 to 16 thereof to the effect:-

“13. Having heard both the parties at length and examined the documents, we are of the opinion that the mistake in calculation was made by the authorities when the applicant resigned w.e.f 31.12.2001. The discrepancy in amount of gratuity was to the tune of Rs.2,28,372/- which should have been paid instead of Rs.1,57,700/- on 31.12.2001. Giving six months time to the authorities who calculated and finalized claim amount should have been released by 01.05.2002. Therefore, we are of this opinion that the delay in payment has been for no fault of the applicant and he should have been paid the amount i.e. Rs.2,28,372/- latest by 01.05.2002 i.e. when the applicant was paid Rs.1,57,500/-. Therefore, the differential between what was due and what was actually paid to the applicant should attract interest rate at the rate of 9% per annum w.e.f 01.05.2002 giving lead time to authorities to work out the amount of payment and make that payment.

14. As regards, the prayer regarding membership of ECHS and extension of facility of CSD services, we are not inclined to interfere since the applicant has „resigned“ is not termed as “Ex Serviceman”. However, the definition of ex-servicemen when it changes in subsequent years, he shall be entitled to those facilities as well.

15. In view of the foregoing, we partially allow the application and direct that differential in the gratuity payment made i.e. Rs.2,28,372/- – (minus) Rs.1,57,500/- = Rs.70,872/- to the applicant to be computed at the interest rate of 9% per annum w.e.f. 01.05.2002 till the applicant received the balance of gratuity payment. The exercise may be completed within 90 days from the passing of this judgment by the respondents.

16. With aforesaid directions, the main application as well as all three MAs stand disposed off. As observed above, since the payment was inadvertently delayed for which the applicant was forced to approach the Courts, a cost of Rs.1000/- is imposed on the respondents, to be paid to the applicant.”

30. The said order dated 25.05.2011 of this Tribunal in TA 461/2009 @ WP(C) 7781/2009 of the Hon'ble High Court of Delhi was assailed by the applicant vide petition for Special Leave To Appeal(Civil) no. 26298/2011 and as per official communication received vide letter dated 08-10/February,

2011 from the Registrar, Supreme Court of India, the Registrar of this Tribunal was informed that the petition for Special leave to appeal(Civil) no. 26298/2011 was dismissed by the Hon'ble Supreme Court. **Thus the order dated 25.05.2011 of this Tribunal in TA 461/2009 has attained finality and the contention of the applicant that the Amicus Curiae had not put forth the correct facts for the calculation of the terminal benefits of the applicant cannot be re-agitated.**

31. In terms of the proceedings dated 24.11.2025 in view of the contentions raised by the applicant that the DSOP fund has been underpaid to him as averred in Para-g at Page-7 of written arguments were filed by the applicant dated 16.05.2025 to the effect:-

“(g)That DSOP fund underpaid as related documents stated not available by Air HQ before this court vide Order Dt. 04/9.2024, false excuse by Respondents as documents of applicant’s Dt. Sep 2001 and 21 Dec 2001 can be preserved but Salary slips cannot be, Further salary slips are computer generated and his batch mate possibly still serving. Applicant underpaid to tune of 2.5 Lacs, with interest 9% till Aug 2025 of on said amount is Rs 5,28,750/ and Hence Total amount to be paid is Rs 2,50,000/= + Rs

**5,28,750/=resulting to Rs 7,78,750 /=
(DSOP).",-**

the respondents were directed to produce the account statement qua the applicant for the DSOP payment through the Directorate of Air Veterans and pursuant thereto on 01.12.2025, the respondents produced the original DSOPF record, copies of which were submitted on record to submit that in terms of the audited account a sum of Rs. 2,61,657/- has been paid to the applicant towards the DSOP fund upto the years 2001 and 2002. The respondents also placed on record the Statement of the Provident Fund Ledger Card 2001-2002 of the Air Force Central Accounts Office, New Delhi along with the copy of the original record which indicates to similar effect and apart from the payment of a sum of Rs. 70,872 towards retiring gratuity vide order dated 25.05.2011 in TA 461/2009 that had been held to be underpaid, which has been paid to the applicant on 06.04.2010. The respondents further submitted and that in terms of the order dated 25.05.2011 in TA 461/2009, the amount of Rs. 51,899/- with calculated interest @9% p.a. on

the difference of the gratuity on account of less payment of gratuity for Rs. 70872/- has also been paid to the applicant on 18.08.2011. The respondents thus submitted an account statement in relation thereto on record by the respondents and thus submit that there is not a penny due to the applicant from the respondents.

32. It is apparent through the records produced by the respondents that the statutory complaint dated 21.11.2001 of the applicant has apparently been rejected. Note-11, Note,18, Note-23, Note-24, Note-27 of the File No. Air HQ/C 21901/PSS/20513/PO-3(F) dated 30.06.2000 read to the effect:-

“

11

- 1. Please refer Encl-9A.***
- 2. Ex Sqn Ldr Vijay Prakash (20513) F(P) has sent a representation for reconsideration of his release as Premature Retirement instead of resignation and for grant of post retirement benefits. The officer has also addressed his representation to the Hon'ble President of India and the RM.***
- 3. The officer had applied for PR in Feb 2000 for lack of career opportunities which was turned down by this HQ and***

MoD (N-2 and N-3 ante). The grounds then projected by the officer were as follows:

- (a) *In the last ten years of his service, the officer had tried his best to come up to the required standards set for an officer in the Armed Forces but has repeatedly failed to do so because of lack of his own abilities. The officer felt that many a times it was a resultant of disagreement to superior officers.*
- (b) *At 48 Sqn, two summaries of evidence were conducted against him for being involved in altercation with few superior officers, one of which culminated into award of 'Reproof to him.*
- (c) *At 43 Sqn, he was posted out within one and half years for apparently having disagreement with the Commanding Officer. Even during the short tenure at the Sqn, he was frequently detailed to undergo ground courses to apparently keep him out of the Sqn.*
- (d) *At NDA, the officer was given adverse report with 4 marks in discipline and 4 in loyalty.*
- (e) *He was placed within the last ten in the flying course at the time of commissioning.*
- (f) *The officer felt that he had been falling short of the mark as expected of an officer and this had been annotated in his ARs from time to time. The officer opined that the growing responsibilities as an officer were beyond his capabilities to handle.*

Hence, instead of setting bad example for the junior officers and men placed below him, he felt that he would rather quit than carry on as a burden on the Air Force. He did not foresee any career for himself in the Armed forces.

4. The officer then applied for Resignation of Commission, which was approved by this HQ and MoD (N-6 ante) and the officer Resigned his Commission wef 30 Sep 01. While the officer's initial PR application was under process, the officer had filed a writ petition in the High Court of Delhi for a speedy disposal of his application. However, on approval of his resignation application, the case was disposed off by the High Court with liberty to the petitioner to approach the court after 9 months if the dues admissible to him were not paid.

5. The officer then sent a statutory complaint the main contention of which was the refusal to his request for release from service. Since his second application for Resignation was approved and other points raised by him in his 4 statutory complaint did not warrant any action, the statutory complaint was disposed off.

6. The officer felt that there were certain issues in his earlier applications, which have not been adequately addressed. In his instant representation, he has requested for changing his orders for Resignation to that of Premature Retirement on the following grounds:

(a) After the rigorous training at NDA and various academies, he was granted the most revered Commission on 16 Dec 89 and he has performed his best in all

operational tasks. Despite his most sincere contributions to his profession in flying, he was frequently detailed for ground duty courses and his ego-centric superiors at PTS vindictively and maliciously finished his career. He was denied even the basic right of appearing in the flying exam test with AEB in Sep 99.

(b) There have been efforts to declare him mentally sick and highly distorted executive reports were raised on him. He was also denied an interview with CAS and the President of India.

(c) The officer was trained at an exorbitant cost to the nation. However, the loss of a trained and skilled Pilot was a matter of least concern to his superior officers. This and the rejection of his application for premature retirement had eroded his faith in the system so badly that he was left with no option but to submit his resignation.

(d) Though the Court has directed for reconsideration of his case for premature release, he was granted Resignation of Commission thus denying him the retirement benefits. He was in effect also denied the privilege of per release course to help him rehabilitate with dignity.

Staff Comments

7. The officer has repeatedly brought out the denial of adequate opportunities to him to upgrade his flying rating. However,

it has been refuted by the PTS. The officer's performance as per AEB records has been marginal in Categorisation Boards. At PTS alone, the officer has logged 84 hrs of flying within a span of 5 months inspite of being not available for flying for 131 days.

8. On recommendations from SOA, HQ CAC, IAF, CAS had directed for psychological and psychiatric counselling of the officer. The aim however was not to declare him a psychiatric case but to evaluate him since it was felt by DGMS (Air) that such a counselling would help the officer overcome his belittling psyche.

9. The officer applied for PR in Feb 2000 (Encl-1A) on the grounds of lack of career opportunities on his own accord. He had stated in his application that he had been falling short of the mark as expected of an officer and this had been annotated in his ARS from time to time. He also opined that the growing responsibilities as an officer were beyond his capabilities to handle. However, his application was rejected since it was too premature to comment on his future career prospects. Even before his application could be processed at this HQ, the officer had filed a Writ Petition in the Delhi High Court for speedy grant of PR. On rejection of his PR application, he immediately applied for Resignation of Commission. All these were obvious indications that he was desperate to leave service because of his own shortcomings which he has accepted himself in his PR application. Hence, his present contention that he was compelled by the circumstances to resign is not tenable.

10. The Delhi High Court Order dated 07 May 2001 states that 'Opinion has been

given by Medical Board with regard to physical condition of the petitioner. It shall be open for the petitioner to file representation to the competent authority for reconsideration of his request for premature retirement on the basis of the said medical report, without prejudice to his rights and contentions in the writ petition. In the event of petitioner filing such a representation, the same shall be considered by the respondents on its merits and in accordance with law and shall dispose off the same within eight weeks from the date of receipt. The medical report referred to in the Court Order was the report from IAM on the psychological counselling of the officer. Since the officer applied for Resignation of Commission, his application was considered for Resignation as per the Court Order and disposed off in his favour. Hence, there was no legal infirmity in the actions of this HQ.

11. The case was referred to Dept of JAG (Air) for legal opinion. A JAG (Air) has endorsed that the officer's instant representation does not merit consideration since he was granted resignation on his own accord. A JAG (Air) has also drafted a reasoned reply that needs to be sent to the officer since the ex officer had filed a court case which has been disposed off on 26 Sep 01.

12. In the meanwhile, the officer has also sent another statutory complaint which has also been addressed to the Hon'ble President of India, 21. the RM and the Chief Justice of the Supreme Court, bringing out almost the same aspects which have been addressed in his instant representation (Encl-10A).

13. In view of the above, it is recommended that the officer's request for change of his Release Orders from Resignation to PR may kindly be rejected and a reasoned reply be sent to the officer as recommended by AJAG (Air). It is also recommended that, the ex officer's statutory complaint (Encl-16A) may also be rejected.

14. This has the concurrence of CAS.

**Sd/-
(A Sengupta)
Wg Cdr
DDPO-3(F)
04 Feb 02
Extn: 6351**

MOD/D(Air)

"

" -18-

Reference above.

- 1. Please refer N-17 ante.**
- 2. It has been confirmed by AFCAO, AF that Pay Pension Order No. DCA/Pen/AS/0/20513 dated 18 Mar 02 has been issued to the office and the cheques for Gratuity and Leave Encashment have been issued.**
- 3. The officer has not filed any petition for his NE benefits.**

**Sd/-
(A Sengupta)
Wg Cdr
DDPO-3(F)
26 Mar 02
Extn: 6351**

MOD/D(Air-III)

"

"

23

- 1. Please refer N-11 ante and your decision at N-22 ante.**
- 2. The recommendations placed at Para 13 of N-11 also mentioned about a statutory complaint dated 21 Nov 01 of the officer (Encl-10A). The recommendations were to reject this statutory complaint in addition to the officer's representation for change of his release orders from Resignation to PR**
- 3. While the representation has been rejected by MoD, the decision on the said statutory complaint of the officer has not been given.**
- 4. It is recommended that the Statutory Complaint of the officer may also be rejected.**

Sd/-

*(A Sengupta)
Wg Cdr
DDPO-3(F)
26 Mar 02
Extn: 6351*

MOD/D(Air-III)

24

Reference above

- 2. The representation refer to in para 13 of note 11(Encl. 10A) has been consider & rejected by the competent authority.**

*Sd/-
2/07/02
DS(Air-III)"*

27

- 1. Ex Sqn Ldr Vijay Prakash (20513) F(P) has written to the CAS in response to the**

reasoned reply sent to him on his earlier representation. The ex-officer has also addressed his grievances to the Hon'ble President of India and Defence Secretary (Ends-258 and 26B).

2. The officer had applied for PR in Feb 2000 for lack of career opportunities stating that he was assessed '4' in loyalty and discipline while on the posted strength of NDA. He also apprehended that he was incapable of fulfilling standards expected of a commissioned officer and was unable to cope up with the growing responsibilities of an officer. His application was rejected by this HQ and MoD since it was too premature to comment on the future prospects of the officer (N-2 and N-3 ante).

3. The officer then applied for Resignation of Commission, which was approved by this HQ and MoD (N-6 ante) and the officer Resigned his Commission wef 30 Sep 01. While the officer's initial PR application was under process, the officer had filed a writ petition in the High Court of Delhi for a speedy disposal of his application. However, on approval of his resignation application, the case was dismissed by the High Court with liberty to the petitioner to approach the court after 6 months if the dues admissible to him were not paid. It has been confirmed by AFCAO that the dues admissible to the officer were disbursed within the stipulated 6 months period.

4. The officer then sent a statutory complaint, the main contention of which was the refusal to his request for release from service. Since his main grievance i.e. non-grant of release was put to rest with the approval of his Resignation

application, the statutory complaint was disposed off at the level of Air HQ. However, the officer felt that his statutory complaint had not been adequately addressed. Hence, he sent another representation requesting for change of his orders from that of resignation to premature retirement on the basic grounds that his career was truncated by his egocentric superiors at PTS and he was forced to resign. The officer's representation was rejected by MoD (N-11 to N-22 ante) and a reasoned reply, drafted by Dept of JAG (Air), was sent to him (Encl-15A).

5. The officer had also submitted another statutory complaint addressed to the Hon'ble President of India, the RM and the Chief Justice of the Supreme Court, re-iterating the issues raised in his representation. This statutory complaint was also processed with MoD for rejection (N-11 to N-24 ante) and a suitable reply has been sent to the officer.

6. The officer's instant letter to CAS is devoid of any substance. In general, he has refuted all the clarifications given in the reasoned reply denying the contents of each one of them. He has also expressed his concern over the accident of 07 Mar 99 involving an AN-32 ac of PTS, an issue that was also emphasised upon in his earlier petition in the Court. In his opinion, the accident was caused due to the negligence of the few who were never brought to books. The allegation, however, was replied to in the Counter Affidavit filed in the Court. As stated earlier, the case has been dismissed by the High Court.

7. The officer has been representing time and again and the crux of all his representations have remained the same. All his grievances have been addressed in the reasoned reply. He, however, continues to express his dissatisfaction even though his request for resignation has been approved and he has been paid all the NE benefits that accrue to him.

8. In view of the above, it is recommended that the officer's instant letter may kindly be rejected. It is also recommended that no reply be given to the officer since his earlier representations and statutory complaints have been responded to and no fresh issues have been raised by him.

9. This has the concurrence of CAS.

**Sd/-
(A Sengupta)
Wg Cdr
DDPO-3(F)
26 Mar 02
Extn: 6351**

MOD/D(Air-III) Govt approval accorded for rejection of his representation.

JDPO-3 *Sd/-*
05.01.02 *”*

33. The records of File No. Air HQ/C21901/ PSS/ 20513/ PO-3(F) dated 30.06.2000 produced by the respondents in relation to the applicant makes it clear that the applicant's

statutory complaint dated 21.11.2001 had been rejected by the competent authority.

34. We consider it essential to advert to Note 2, Note-3, Note-5, Note-6 of the records of the said file to the effect:-

“

N-2

1. Please refer Encl- 1A.

2. Sqn Ldr Vijay Prakash(20513) F(P) has applied for PR for lack of career opportunities. The grounds projected by the officer are as follows:

(a) In the last ten years of his Service, the officer has tried his best to come up to the required standards set for an officer in the Armed Forces but has repeatedly failed to do so because of lack of his own abilities.

(b) At 48 Sqn, two summaries of evidence were conducted against him for being involved in altercation with few superior officers, one of which culminated into award of 'Reproof' to him.

(c) At 43 Sqn, he was posted out within one and half years for apparently having disagreement with the Commanding Officer. Even during the short tenure at the Sqn, he was frequently detailed to undergo ground courses to apparently keep him out of the Sqn.

(d) At NDA, the officer was given adverse report with 4 marks in discipline and 4 in loyalty.

(e) He was placed within the last ten in the flying course at the time of commissioning.

(f) The officer feels that he has been falling short of the mark as expected of an officer and this has been annotated in his ARs from time to time. The officer opines that the growing responsibilities as an officer are beyond his capabilities to handle. Hence, instead of setting bad example for the junior officers and men placed below him, he would rather quit than carry on as a burden on the Air Force. He does not foresee any career for himself in the Armed Forces.

3. Sqn Ldr Vijay Prakash was commissioned on 16 Dec 89. He is an acting Sqn Ldr wef 08 Jan 99 and he will superannuate on 31 Dec 2017. He has not undergone any course more than 6 months in India or abroad in the preceding 5 yrs. His average AR grading in the last 5 yrs is '5.8' in air and '5.37'.

4. PR application of the officer has been forwarded by CO, PTS and AOC, AF Station Agra as strongly recommended. CO PTS, in his remarks, has stated that despite sympathetic handling and repeated counseling, the officer has consistently failed to appreciate the norms of service. AOC, AF Station, Agra has remarked that the officer strongly feels that he will not be able to change his attitude. SOA, HQ CAC, IAF has opined that the officer should be put under a professional psychologist for counseling to unearth his hidden fears and help him get rid of the belittling psyche. He also feels that the officer be taken off flying duties for the time being. DDPO-1(T) is of the opinion that the officer is not sparable due to low manning in F(P) branch. The officer has completed only 10 yrs and 5 months of service.

5. Before his PR application could be processed, the officer has filed a writ petition in the High Court of Delhi for a speedy and favourable disposal of his PR application. The court case is being dealt with separately.

6. DDPO-4(E), in his remarks, has stated that the officer was promoted to the acting rank of Sqn Ldr in Jan 2000 after completing 9 yrs of service. He could not be promoted earlier as his AR status was found to be below the minimum criteria as laid down in the promotion policy. He will be empanelled for PB-III/2006 for further promotion. Hence, it is premature to comment on the future prospects of his career.

7. In view of the above, it is recommended that the officer's request for PR on grounds of lack of career prospects may kindly be rejected.

8. This has the concurrence of CAS.

Sd/-
(A Sengupta)
Wg Cdr
DDPO-3(F)
16 Aug 2000
Extn: 6351

MOD/D(Air-III)

PSL 'X'. In view of no low marks particularly in loyalty whether it is desirable to retain him.

DDPO-3

Sd/-
18.8 "

"

N-3

1. Please refer N-2 ante and your remarks thereto.

2. The officer was assessed '4' in

'Loyalty' in his 1997 AR which was an adverse AR raised on him. However, his average AR grading in 'Loyalty' in the last 5 ARs is '5.4'. AR Dossier is linked.
3. There is no provision as per Govt/ Air HQ policies for removal/grant of PR to an officer (on grounds of low AR grading) with average AR grading of '5.4' in Loyalty.

Sd/-

(A Sengupta)

Wg Cdr

DDPO-3(F)

16 Aug 2000

Extn: 6351

MOD/D(Air-III).

Sd/-

11.9

DDPO 3

"

N-5

Representation to President of India

"

N-6

- 1. Please refer Encl-4A.*
- 2. Sqn Ldr Vijay Prakash(20513) F(P) has applied for Resignation of Commission. The officer had earlier applied for PR in Feb 2000 on grounds of lack of career prospects which was turned down by this HQ and MoD. The grounds on which the officer sought PR are placed at N-2 ante.*
- 3. The officer has applied now for resignation of commission. The grounds projected by the officer are as follows:*
 - (a) The officer has not been given AR feedback after completing 5 and 8 yrs of*

service. He has also been adversely rated repeatedly in his AR in mandatory qualities considered as core values of an officer. The officer also feels that he does not have the requisite intellectual capacity or necessary AR grading for the DSSC Exam.

(c) The officer was humiliated publicly time and again after he applied for PR. Form AFMSF-10 was raised on him arbitrarily and subsequently withdrawn hastily after having learnt that the officer had already approached High Court for necessary protection.

(d) The officer's earlier application for resignation of commission and Interview were held back deliberately. Even the officer's application for leave was being turned down on flimsy reasons.

(e) The officer neither feels pride in putting on the uniform nor does he take pride in addressing himself as an officer of IAF.

4. Sqn Ldr Vijay Prakash was commissioned on 16 Dec 89. He is an acting Sqn Ldr wef 08 Jan 99 and he will superannuate on 31 Dec 2017. He has not undergone any course of duration more than 6 months in India or abroad in the preceding 5 yrs. His average AR grading in the last 5 yrs is '5.8' in air and 5.37' in ground. AR Dossier of the officer is linked.

5. Resignation of Commission application of the officer has been

*forwarded by PTS as recommended.
The officer has completed 11 yrs and
2 months of service.*

6. The officer has been cleared from Security and Vigilance angles.

7. In view of the above, it is recommended that the approval of MoD may please be accorded to grant Resignation of Commission to the officer on the grounds of lack of career prospects.

8. The officer has also sent a representation to the President of India for an early disposal of his application for resignation, with a copy to CAS (Enol-5A). Since his application has been processed at Air HQ and is being recommended for approval, the officer's basic grievance has been put to rest.

9. This has the approval of CAS

**Sd/-
(A Sengupta)
Wg Cdr
DDPO-3(F)
28 May 01
Extn: 6351**

MOD/D(Air-III). AR Dossier also linked

DDPO 3 **Sd/-**
26.07.04 ”

The same bring forth clearly that the applicant's request for premature retirement on the grounds of lack of career opportunities was recommended vide Note dated

16.08.2000 of the Wg Cdr DDPO-3(F) to be rejected and vide note dated 18.08.2000 of the DDPO-3 and the Note N-3 dated 25.08.2000 in view of the grant of average AR grading to the applicant in 5.4 in Loyalty, it was stated that there was no provision as per Government/Air HQ policies for removal/grant of PR to an Officer thereupon.

In the meantime as per Note-4, the applicant applied for Resignation of Commission vide letter dated 20.10.2000 which reads to the effect:-

“Squadron Leader Vijay Prakash 20153- R F(P)

**PTS, AF
C/O 56 APO**

20 Oct 2000

**Commanding Officer
PTS, AF
C/O 56 APO**

RESIGNATION OF COMMISSION: OFFICERS

Sir,

1. *Reference is made to application for premature release dated 04 Feb 2000 and 09 Feb 2000 and decision taken thereof as not approved conveyed to me on 22 Sep 2000.*
2. *The rejection of my request of the premature release without citing any reasons for it has left many queries unanswered which I wish to bring to your kind notice and necessary action.*

(a) Lack of career prospects: The matter so raised by the application dated 13Jan

2000 and subsequently 04 Feb 2000 has still not been satisfactorily replied to me. I have still not been given feedback about my AR for 5 and 8 year. I have been adversely rated repeatedly in AR's in mandatory qualities, considered as c values of an officer. The singular reply of service requirement does not amplify prospects for me in terms of employability and suitability of further retention in service. Also I don't have the requisite intellectual capacity or the necessary AR grading to qualify for the DSSC exam. Besides it has already been endorsed that don't stand a chance of promotion in future.

(b) Flying Aspects:

- (i) I had not been able to upgrade in AEB session Sep 1999 as I was not given sufficient hours towards completion of the said exam. This has result in reducing my status from a categorized pilot to uncategorised pilot.*
- (ii) There was no effort made by the squadron authorities subsequently at any stage to get me categorised. Even an independent body like AEB did not feel the need to conduct my exam later where as all the officers who have either failed or were not able to complete their exam due to any reason have their exam conducted by the AEB at the earliest.*
- (iii) This repeated denial has shaken up my confidence in flying to an extent where I have myself declined to continue flying due flight safety reasons. Hence the career of flying is sealed for me here after.*

(c) harassment:

(i) I have been humiliated publicly on and off after I had forwarded my application for premature release.

(ii) AFMSF-10 was raised on me arbitrarily to crack me up and subsequently withdrawn hastily after having learnt that I had already approached High Court for necessary protection.

(iii) My earlier application for resignation of commission and interview has been held back deliberately. Even my request for leave is being turned down for flimsy reasons.

3. It is beyond my capacity to measure upto high demands and rigours of job as an officer. I have no pride whatsoever in putting on my ranks or in the uniform neither do I take pride in being addressed as an officer of Air Force. I have amply stated that I do not wish to continue as an officer in any circumstance in my earlier application for premature release and still it has been turned down without specifying any reasons.

4. I am hereby left with no option but to resign my commission with immediate effect and request that my application be processed at the earliest.

***Sd/-
your's sincerely "***

35. The remarks by the Commanding Officer dated 23.11.2000, the remarks dated 02.01.2001 of the Air Officer

Commanding and the remarks dated 11.01.2001 of the Command Hqrs on the said application of the applicant read to the effect:-

“ **Remarks by Commanding Officer**

The officer is ill tempered and at times gets violent, many a times resulting in physical brawl. Acts of insubordination have been witnessed. He accuses the system as well as his seniors in public resulting in setting a wrong impression in the minds of his juniors about the services as a whole and seniors in particular. It is recommended that his application for resignation of commission be accepted subject to recovery of the entire cost of his training before his release.

Sd/-

(KS Hundal)

Gp Capt

1
co

Date: 23 Nov 2000

Remarks by Air Officer Commanding

The officer has been interviewed. It is evident that he has not adequately adjusted to service environment. His temperament and resultant behaviour as reported by his CO is indicative of a maladjusted personality whose continued retention is neither in service interest, nor in the interests of the individual. His presence in the unit does not make him an appropriate role model for juniors to emulate. A case for psychological assessment and counselling has also been taken up by HQ CAC. The officer has also applied for

resignation of commission to the President. He has also filed a case in Court. It is recommended that his application be processed after psychological testing. It is also recommended that his retention is not in service interest.

Sd/-

(S N Bal)

Air Commodore

Air Officer Commanding

Air Force Station, Agra

Date: 02 Nov 2001

Remarks by Command Headquarters

- *I fully endorse view of AOC*
- *Resignation may be accepted.*

Sd/-

(A K Bhattacharya)

AVM

SOA

SAG, IAF

Date: 11 Jan 2001

”

36. Placed on the records produced by the respondents of the File No. Air HQ/C 21901/PSS/20513/PO-3(F) dated 30.06.2000 is the letter dated 06.12.2000 of the applicant to the Hon'ble President of India seeking an early decision on resignation of commission/ premature release. Placed on the said record is also an application dated 04.02.2000 of the applicant seeking premature release in relation to which the

remarks of the Commanding Officer dated 11.02.2000 read to the effect:-

“ **Remarks by Commanding Officer**

The officer was interviewed and counselled by the undersigned. As mentioned in his application the officer has not been able to meet upto the requirements of service in the past. Despite sympathetic handling of the officer and repeated counselling by the undersigned he has consistently failed to appreciate the norms of service. He is of an adamant nature and is under the impression that As the officer grows he is always correct in all respects. up in service, the demands and expectations placed on him by the organisation will be of a high order. It is being sincerely felt by the undersigned that the officer will not fulfil the demands placed en him. Hence his application is strongly recommended.

Sd/-

(KS Hundal)

Gp Capt

C O

PTS AF

Date: 11 Feb 2000

37. The remarks of the Air Officer Commanding dated 21.03.2000 and remarks dated 12.04.2000 of the Command Hqrs thereon read to the effect:-

“

Remarks by Air Officer Commanding

Interviewed the officer. The officer has been counseled to mend the attitude to the norms of service and desist from his adamant nature. The officer however strongly feels that he would be able to change the attitude and in view of the adverse remarks in his ACR he does not stand a fair chance for promotion. In the light of his application it is strongly recommended that he may be granted premature release.

Sd/-
(P A Harimohan)
Air Commodore
Air Officer Commanding
Air Force Station, Agra

Date: 02 Nov 2001

REMARKS BY COMMAND HQ

I have interviewed the Officer and spoken to him at length. On the face of it, there is nothing wrong with him. However, it appears that he has psyched himself into believing that he is not capable of adjusting himself in this- Air Force - environment. He does not even want to make an effort to make things work. Under the circumstances, it is opined that the officer should be put under a professional psychologist for counseling to unearth his hidden fears and help him get rid of this belittling psyche. Under appropriate guidance and counseling by a professional, he is likely to overcome this complex and may continue to be an useful member of the Air Force in ops-related (Non-Flying)

environment. He may be taken off flying duties for the time-being.

**Sd/-
(R C Mahadik)
Air Vice Marshal
Senior Officer i/c Administration
Central Air Command, IAF ”**

Date: 12 Apr 2000

Thus the same brings forth clearly that the contentions raised by the applicant that his request for premature retirement was turned down on flimsy reasons cannot be accepted as the remarks of the Command Hqrs dated 12.04.2000 reproduced hereinabove were categorical to the effect that under appropriate guidance and counseling by a professional, the applicant was likely to overcome his complex(unearth his hidden fears and helping him get rid of belittling side) and that he may continue to be a useful member of the Air Force in ops-related(Non-flying environment) and he was thus asked to be taken off flying duties for that time. The records produced by the respondents thus do not indicate any malafides or any extraneous consideration for declining the request of the applicant to seek premature retirement coupled with the

factum that the taking of premature retirement is not a right *per se*. In these circumstances thus, the submission raised by the applicant that he was forced to submit a resignation on 20.10.2000 which was accepted by the Government as per letter no. Air HQ/21901/20513/PO-3(F) dated 07.08.2001 whereby the Resignation of Commission of the applicant was approved and he stood resigned w.e.f. 30.09.2001- cannot be accepted.

38. A subsequent representation dated 21.09.2001 was submitted by the applicant thereafter to the Commanding Officer PTS, AF C/O 56 APO whereby the applicant in Paras-3 and 4 thereof stated to the effect:-

“3. The flying training is imparted at an exorbitant cut to the nation and it is this most logical to keep a pilot flying as far as possible subject to medical fitness. Even during post crisis of air crash of an aircraft of the unit, I had willingly taken up the task of independent detachment for overseas commitment and finished the job under trying circumstances to the satisfaction of Command I was attached to. An effective mature commander sets aside the personal prejudices and makes the best effort to motivate and create a conducive setup for his subordinates for best efficiency. There has to be a

conscious effort to have synergistic approach for organizational and personal growth where by an individual is self motivated to contributes his best even in most demanding circumstances. The loss of a highly trained an skilled manpower(here a pilot) to service and nation is matter of least concern before the ego of superior officers. I had forwarded my application of premature release citing my own inadequacies to measure upto the demands of service, which was turned down without citing any reasons. Even If the system felt that I had not been a good officer, I should have been granted premature release naturally. All this had eroded my faith in the system so badly that, I lost all hope of any justice, as all the superior officers responsible for my state were never questioned at any stage for causing a loss of pilot to the service. This also indirectly reflects that one who is with the system (superior officers) is never taken to task seriously, whatever be the damage to service (a case in point is the crash of aircraft on 07 mar 99 at Delhi resulting in loss of mulicrore aircraft along with innocent lives therein and also abusing the genuinity of raising psychiatric evaluation on anyone showing slightest dissent). I was left with no option but to submit resignation of my most respected and cherished President's commission (an honour granted by Supreme Commander of Armed forces to me). The representation made by me on 08 May 2001 summaries the entire episode of maltreatment subjected to me

4. Even now, after being directed by Honourable High court of Delhi for reconsideration of premature release, I have been granted Resignation of Commission thus denying me the privileges of retirement benefits, that too after giving my best years of life to the service. The privilege of extending a pre release course of personal suitability to help settle down an ex-officer with dignity and self respect has not been granted to me. I therefore most humbly request you to kindly grant me this help along with medical benefits and allow me be identified as a ex-member of service as a gesture of acceptance of request of an officer of our esteemed Air Force.

*Sd/-
your's sincerely*

*Copy to: His excellency, President of India
Defence secretary, Ministry of Defence
Chief Justice of India
ACAS(PO)(Advance copy)
Mr. Atul Kumar(My Lawyer) ”*

with the heading of the said letter being to the effect:-

**“RECONSIDERATION OF PREMATURE RELEASE
AND POST RETIREMENT BENEFITS: OFFICERS”**

39. As per the records of the respondents, the said letter was received on 24.09.2001 as per the stamp on Page-9A thereof, during the pendency of WP(C) 2449/2000 filed by the applicant. The said WP(C) 2449/2000 was disposed of vide

order dated 26.09.2001 already adverted to hereinabove in Paras-17 and 18. The records produced by the respondents categorically indicate that the representation made by the applicant for re-consideration of premature release and post retirement benefits dated 21.09.2001 was not accepted. As submitted vide the counter affidavit filed dated 06.09.2023 by the respondents, the said representation was rejected by the competent authority, as he had been granted resignation of commission on his own accord and it was thus submitted that the contention of the applicant that he had been denied the privileges of the retirement benefits, was untenable. The response was sent to the applicant vide letter no. Air HQ/21901/20513/PO-3(F) of February 2002 apprising him to the effect that the competent authority on considering the entire facts and circumstances of the case particularly the fact that resignation of commission was voluntarily submitted by the applicant and that the competent authority has decided not to convert the orders for resignation of commission to premature retirement. **Significantly the**

aspect of the letter dated 21.09.2001 having been submitted by the applicant was not submitted by the applicant before the Hon'ble High Court of Delhi on 26.09.2001 when WP(C) 2249/2001 was taken up for consideration.

40. The records produced by the respondents thus do not indicate any malafides or extraneous considerations both in relation to :

***“(i) the denial of the acceptance of the application of the applicant for premature retirement.
(ii) In the acceptance of the application for resignation of commission by the applicant, and
(iii) in the rejection of the request of the applicant for reconsideration of his application for resignation of commission to be premature retirement.”***

41. The response submitted by the respondents to documents submitted by the respondents on 01.12.2025 give the breakup of amounts paid to the applicant as under:-

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Sl No	Type of payment	Amount paid	Paid by agency
2.1	DSOPF	Rs. 2,61,657/-	<i>(i) Released vide CAO/10216/ 20513/OPS/F dated 20 Nov 2001 as intimated</i>

			<p>by AFCAO(copy annexed)</p> <p>(ii) Copy of the details of DSOP Fund subscription/ withdrawal and audited copy of Fund Ledger Card received from AFCAO vide their letter no. CAO/ 10203/ 202513/ OPS dated 29 Nov 25 is annexed.</p>
2.2	Leave Encashment	Rs. 72,437/-	<p>(i) Released vide CAO/10203/20513/OPS/ NE I dated 22 Mar 2002 as intimated by AFCAO(copy annexed)</p> <p>(ii) The applicant had encashed accumulated annual leave of 113 days(copy of IRLA and NE POR is annexed)</p>
2.3	Gratuity/ DCRG	Rs. 3,19,264/- (paid in 2002) Rs. 70,872/- (paid in 2010)	<p>Dy CDA(AF)</p> <p>(i) Dy CDA(AF) letter No. DCA/Pen/AF/0/20513 dated 18 Mar 2002(copy annexed).</p> <p>(ii) Dy CDA(AF) letter No. DCA/Pen/I/AF/0/20513 dated 06 Apr 2010(Copy annexed).</p>
2.4	Interest on Gratuity	Rs. 51,899/- (Interest @ 9% per annum on difference on gratuity on	<p>(i) Dy CDA(AF) letter no. DCA/Pen/AF/0/20513 dated 18 Aug 2011(Copy annexed).</p>

		<p><i>account of less payment of gratuity for Rs.70,872/- on the basis of AFT(PB) judgement order dated 25 May 2011) (paid in 2011)</i></p>	<p><i>(ii) Calculation sheet for payment of interest on Gratuity is annexed.</i></p>
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42. It is apparent thus that there is nothing due to the applicant towards any terminal dues. On a consideration of the entire available records, the OA 613/2019 and the prayer-(d) in MA 663/2020 and all pending attending applications filed by the applicant are thus dismissed.

Pronounced in the open Court on the 5th day of February, 2026.

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

**[JUSTICE ANU MALHOTRA]
MEMBER (J)**

/TS/