

**COURT NO.3  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**OA 1107/2025 with MA 1655/2025**

**Smt. Vijay Laxmi W/o late Ex LM(E) Sohan Singh** ..... **Applicant**  
**Versus**  
**Union of India and Ors.** ..... **Respondents**

**For Applicant** : Mr. Ajit Kakkar, Advocate,  
**For Respondents** : Mr. Niranjana Das, Advocate

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

**MA 1655/2025**

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 18015 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of *UoI & Ors Vs Tarsem Singh* 2009(1)AISLJ 371 and in *Ex Sep Chain Singh Vs Union of India & Ors* (Civil Appeal No. 30073/2017 and the reasons mentioned, the MA 1655/2025 is allowed despite opposition on behalf of the respondents and the delay of 18015 days in filing the OA 1107/2025 is thus condoned. The MA is disposed of accordingly.

**OA 1107/2025**

This application has been filed by the applicant under Section 14 of the

Armed Forces Tribunal Act, 2007, seeking following reliefs:-

- (a) *The applicant be granted special pension to which her late husband was duly entitled to in terms of Regulation 95 of Navy Regulations (Pension), 1964 or Reservist Pension, by declaring Regulation 269, Regs Navy Part-III (Statutory) nullity or void to the extent of its arbitrariness/ illegality as well as its unintelligibility with 8% interest;***
- (b) *The applicant be granted a Special Pension to which her late husband was duly entitled to after being released after having served 10 years and not considered for fleet Reserve Service; and***
- (c) *The applicant be granted any other relief(s) which this Tribunal may deem appropriate, just and proper in the interest of justice, equity and fair play and in the facts and circumstances of the case.***

#### **BRIEF FACTS OF THE CASE**

2. The husband of the applicant Ex LM (E) Sohan Singh was enrolled in the Navy on 09.11.1965 and was discharged on 30.11.1975, after rendering 10 years active service upon expiry of his initial engagement terms. The husband of the applicant was never drafted to the reserve fleet as he was not required as reflected in his service certificate furnished to him on the expiry of his engagement in terms of Section 17 of the Navy Act 1957. The service certificate clearly indicates that the applicant's husband was in active service for 10 years. The husband of the applicant was discharged as a non-pensioner, having not completed the mandatory 15 years of qualifying service required under Regulation 78 of the Navy

(Pension) Regulations, 1964, for grant of Reservist/ service pension. During the pendency of this OA, the husband of the applicant died and the applicant was impleaded as his legal heir.

### **SUBMISSIONS ON BEHALF OF THE APPLICANTS**

3. The learned counsel for the applicants submitted that in terms of Regulation 92 of the Pension Regulations for the Navy, 1964 they are entitled to reservist pension. It is their further contention that in order to reduce the strength of the Indian Navy establishment, the applicants were not transferred to the fleet reserve service resulting in their discharge. It is also contended that discontinuation of their transfer to fleet reserve service officially announced on 3<sup>rd</sup> July, 1976 had started much earlier as back as in 1968, which they submit, was illegal and unauthorized. Learned counsel further submitted that application of Regulation 269 of the Navy (Pension) Regulation, 1964 in the present case is arbitrary, capricious and untenable in the eyes of law being anti-static to equity, justice and fair play and is thus violative of Articles 14 and 16 of the Constitution of India. In support of the case the applicant has placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***EP Royappa*** Vs. ***State of Tamilnadu*** 1974 (4) SCC 3.

4. The Applicant's Counsel submits that the applicant had rendered more than ten years of active naval service and was released on completion of their initial engagement but solely due to organizational requirements. Further, it was contended that although the regulatory scheme contemplated drafting eligible sailors to the Fleet Reserve, in practice, no sailors were drafted to the Fleet Reserve during the relevant period, particularly between 1968 and 1978. This, according to the applicants, clearly establishes that the Fleet Reserve had become non-functional much prior to 1969. It was further argued that denial of pensionary benefits on the sole ground that the applicant was not drafted to the Fleet Reserve, when such drafting itself had virtually ceased, results in manifest arbitrariness and hostile discrimination. The applicant, having served during critical periods including the wars and having earned war medals, cannot be deprived of pensionary benefits for reasons wholly beyond his control.
5. In support of these submissions, learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in **T.S. Das Vs. Union of India and Others** (CA No. 2147 of 2011) as well as decisions of this Tribunal, including **Ex LS Sadanand T. Mulatkar Vs. Union of India and Others** (AFT, Regional Bench, Mumbai) and **LSA Vinod Kumar Sharma (Retd.) Vs. Union of India and Others** (OA No.

1806 of 2022, Principal Bench). On the strength of these precedents, it was urged that the applicant is entitled to Special Pension under Regulation 95 of the Navy (Pension) Regulations, 1964 or in the alternative, Reservist Pension.

6. Per contra, learned counsel for the respondents submitted that the applicant did not fulfill the statutory eligibility conditions for grant of either Service, Reservist or Special Pension. It was submitted that applicant did not complete the mandatory qualifying service of fifteen years required for grant of Service Pension under Regulation 78 of the Navy (Pension) Regulations, 1964. In several cases, the applicants had expressly furnished unwillingness certificates for further extension of service and therefore cannot now contend that they were denied the opportunity to earn qualifying service for pension. Learned counsel further submitted that entry into the Fleet Reserve is neither automatic nor a matter of right, but depends upon service exigencies and the suitability of the individual. In the case of the applicants, the official records, including service documents clearly record that they were “not drafted to Fleet Reserve as not required” or were “excess to complement”. In some cases, the applicants were prematurely discharged from the Fleet Reserve on account of their own conduct or on personal grounds.

7. It was also pointed out that Regulation 92 of the Navy (Pension) Regulations, 1964 mandates completion of prescribed qualifying service both in active naval service and in the Reserve for grant of Reservist Pension. Since the applicants admittedly never rendered the requisite period of reserve service, they do not satisfy the statutory criteria for Reservist Pension. As regards Special Pension under Regulation 95, learned counsel submitted that the benefit has been extended strictly in accordance with the directions of the Hon'ble Supreme Court and the Government of India, Ministry of Defence letter dated 22nd October, 2018, which confers eligibility only upon those ex-sailors who were appointed prior to 3rd July, 1976 and discharged on or after 3rd July, 1976 upon completion of ten years of service. Since applicants were discharged prior to 3rd July, 1976, they fall outside the scope of the said policy and are, therefore, not entitled to Special Pension.
8. We have given our anxious consideration to the rival submissions advanced on behalf of the applicants and the respondents and have carefully perused the material placed on record.
9. The core issue that arises for determination is whether the applicant is entitled to grant of Special Pension under Regulation 95 of the Navy (Pension) Regulations, 1964 or alternatively Reservist Pension, in the light of the law laid down by the Hon'ble

Supreme Court in *T.S. Das* (supra) and subsequent decisions of this Tribunal.

10. We will first examine the issue of Reservist Pension. As per *T.S. Das* (supra) one needs to be drafted into Reserve to be entitled to Reservist Pension. The applicant was not drafted into Reserve; hence, he is not entitled to any relief, as prayed.

11. The Hon'ble Supreme Court in *T.S. Das* (supra), while interpreting Regulation 95 along with letter dated 3<sup>rd</sup> July, 1976, has outlined the principles for grant of Special Pension. Relevant para 23 and 25 From paragraphs 23 and 25 of the judgment read as under:

*"23. The next question is whether the Sailors appointed before 1973 were entitled for a Special Pension, in terms of Regulations 95 of the Pension Regulations. Indeed, this is a special provision and carves out a category of Sailors, to whom it must apply. Discretion is vested in the Central Government to grant Special Pension to such Sailors, who fall within the excepted category. Two broad excepted categories have been noted in Regulations 95. Firstly, Sailors who have been discharged from their duties in pursuance of the Government policy of reducing the strength of establishment of the Indian Navy; or Secondly, of reorganisation, which results in paying off of any ships or establishment. In the present case, Clause(i) of Regulations 95 must come into play, in the backdrop of the policy decision taken by the Government as enunciated in the notification dated 3rd July, 1976. On and from that date, concededly, the Fleet Reserve Service has been discontinued. That, inevitably results in reducing the strength of the establishment of the Fleet Reserve of the Indian Navy to that extent, after coming into force of the said policy. None of the Sailors have been or could be drafted to the Fleet Reserve after coming into force of the said Policy- as that establishment did not exist anymore and the strength of establishment of the Indian Navy*

*stood reduced to that extent. Indisputably, the Sailors appointed prior to 3rd July, 1976, had the option of continuing on the Fleet Reserve Service after expiration of their active service/empanelment period. As noted earlier, in respect of each applicants the appointment letter mentions the period of appointment as 10 years of initial active service and 10 years thereafter as Fleet Reserve Service, if required. The option to continue on the Fleet Reserve Service could not be offered to these applicants and similarly placed Sailors, by the Department, after expiration of their empanelment period of 10 years or less than 15 years as the case may be. It is for that reason, such Sailors were simply discharged on expiration of their active service/empanelment period. In other words, on account of discontinuation of the Fleet Reserve establishment of the Indian Navy, in terms of policy dated 3d July, 1976, it has entailed reducing the strength of establishment of the Indian Navy to that extent.*

*XXX XXX XXX XXX*

*25. Thus understood, all Sailors appointed prior to 3rd July, 1976 and whose tenure of initial active service/empanelment period expired on or after 3rd July, 1976 may be eligible for a Special Pension under Regulation 95, subject, however, to fulfilling other requirements. In that, they had not exercised the option to take discharge on expiry of engagement (as per Section 16 of the Act of 1957) and yet were not and could not be drafted by the competent Authority to the Fleet Reserve because of the policy of OA-1225/2020 Bhagwan Das Saini POWTR (retd.) Page 10 of 15 discontinuing the Fleet Reserve Service w.e.f. 3rd July, 1976. The cases of such Sailors (not limited to the original applicants before the Tribunal) must be considered by the Competent Authority within three months for grant of a "Special Pension" from three years prior to the date of application made by the respective Sailor and release payment after giving adjustment of Gratuity and Death-cum-Retirement-Gratuity (DCRG) already paid to them from arrears. They shall be entitled for interest @ 9% P.A. on the arrears, till the date of payment.*

From the above it is expressly clear that eligibility for Special Pension arises only in the cases of Sailors who were appointed prior to 3<sup>rd</sup> July, 1976, whose tenure of initial active service

expired on or after 3<sup>rd</sup> July, 1976 and who, despite not exercising the option to seek discharge, could not be drafted to the Fleet Reserve solely due to the policy decision of the Government to discontinue Fleet Reserve Service with effect from 3<sup>rd</sup> July, 1976. The letter reads as under:-

“ No. D/5374/2/76/2214/S/D(N.II),  
Government of India,  
New Delhi, the 3<sup>rd</sup> July, 1976,

To

The Chief of the Naval Staff(with 100 spare copies).

Sub- CONDITIONS OF SERVICES OF SAILORS.

Sir,

I am directed to state that the President is pleased to approve the following modifications in the conditions of service of sailors-

(a) Initial Period of Engagement:- Be enrolled for 15 years.

(b) Educational qualification at Entry:- Be raised to matriculation or equivalent in the case of Direct Entry sailors of Seaman and Marine Engineering branches and Boy Entry sailors of all branches.

(c) Ages of Entry:- The age of entry for Boys be revised to 16-18 years and that for Direct Entry sailors to 18-20 years.

(d) Compulsory Age of Retirement:- Subject to the prescribed rules, the age of compulsory retirement for sailors of all ranks upto and including CPO rank will be 50 years. The compulsory retirement age of MCP I/II will remain 55 years.

(e) Time Scale Promotion to Leading Rank:- Seaman First Class and equivalents will be promoted to the Leading rank on completion of 5 years service in man's rank subject to passing the pre s- provision will be promulgated by Naval Headquarters.

(f) Transfer to Current Fleet Reserve:- Transfer of sailors into the Fleet Reserve to be discontinued. The Existing Fleet Reservists will not be required to undergo refresher training but will be paid the retaining fee till they are wasted out.

(g) Recall to Active Service.

i) All now entrants with 15 years initial engagement and such of the existing sailors, who re-engage to complete time for minimum pension, to sign a declaration that they will be liable to recall to active service, after release upto two years in case of Non-Artificers and three years in case of Artificers,. During this period they will not be required to undergo refresher trainings or be entitled to any retaining fee, but when recalled they will be entitled to normal pay and allowances. It recalled they would be liable to serve for so long as their services are required.

ii) Sailors released prematurely from services at their own request will also be liable to recall to active service upto the period stated above.

(h) Regrouping and Remustering of Sailors:- Future entrants (Both Boy and Direct Entry) in Seaman and MS Branches will be on Group 'B' scale of pay. Serving sailors in these branches including Regulating Branch, who are Matriculates or equivalents will also be remustered to Group 'B' scale with effect from 1st April, 1976. Those, who attain this qualification later, will also be remustered to Group 'B' scale of pay, as and when they so qualify. Remustering will invariably be effective from the first of the month in which it occurs.

2. Administration instructions, if any, will be issued by Naval Headquarters.

3. Appropriate Government Regulation/Orders will be amended in due course.

4. This issue with the concurrence of Ministry of Finance (Def) vide their u.o. No. 452/NA/S of 1976.

Yours faithfully,  
(P. S. Ahluwalia)

Under Secretary to the Govt. of India."

12. The Hon'ble Supreme Court has further clarified that such sailors who were rendered incapable of fulfilling the pension-earning condition not by choice, but due to a supervening policy decision of the Government which resulted in reduction of the establishment strength of the Indian Navy. It is this element of involuntary deprivation of an accrued or accruing pensionary right that forms the juridical basis for grant of Special Pension under Regulation 95.

13. The reliance placed by the applicants on the decisions of the Mumbai Bench of this Tribunal in *Ex LS Sadanand T. Mulatkar* and *Ex POME Karnail Singh Gill* (supra) as also the decision of the Principal Bench in *LSA Vinod Kumar Sharma (Retd.)* (Supra), does

not advance their case. On close scrutiny, those decisions are clearly distinguishable. In the cases of *Ex LS Sadanand T. Mulatkar* and *Ex POME Karnail Singh Gill* (supra), the issue of voluntary exercise of unwillingness to continue service was neither raised nor examined. In *LSA Vinod Kumar Sharma (Retd.)*, the Principal Bench primarily followed the Mumbai Bench decisions without independently examining the decisive factor of voluntary discharge prior to the cut-off date. Therefore, those orders cannot water down the binding ratio laid down by the Hon'ble Supreme Court in *T.S. Das* (supra).

14. Moreover, it has been rightly pointed out by the respondents that when confronted with Supreme Court judgment in *T.S. Das* (supra) and with orders passed by AFT (RB) Mumbai Bench and AFT (PB); the judgment passed by the Apex Court and the law established therein will prevail. We find absolute merit in this reasoning.

15. We find complete merit in the submission of the respondents that the ratio of *T.S. Das* (supra) is determinative of the present controversy. The contention of the applicants that the Fleet Reserve had effectively ceased to function even prior to 1969 is also misconceived. It is not established that the applicant was denied

drafting to the Fleet Reserve due to a policy decision in force at the time of his discharge. The applicants' further contention that the dismissal of CA (Diary) No. 5251 of 2023 by the Hon'ble Supreme Court amounts to affirmation of the merits of the decision in ***Ex POME Karnail Singh Gill*** (supra) is factually and legally untenable. The said dismissal was on the limited issue of delay and does not constitute affirmation of the ratio on merits.

16. The issue involved in the present OA is no longer res integra.

This Tribunal, in ***Bhagwan Dass Saini POWTR (Retd.) Vs. Union of India and others*** (OA No. 1225 of 2020), has already examined an identical claim and held that sailors who was discharged on expiry of initial engagement or voluntarily opted for discharge prior to the critical cut-off date of 3<sup>rd</sup> July, 1976 cannot claim Special Pension merely on the ground that the Fleet Reserve was subsequently dispensed with. We find no distinctive factual or legal feature in the present case to take a different view. In the present case, the applicant, neither completed the mandatory qualifying service of fifteen years for Service Pension nor rendered the prescribed reserve service for Reservist Pension. Having discharged after expiry of initial engagement of 10 years of service as non-pensioners, he cannot now claim for pensionary benefits on

equitable considerations contrary to the statutory scheme and binding judicial precedent.

17. In view of the above analysis, we find that the case for Special; Pension to the applicants ex facie does not exist. Thus the O.A. deserves to be dismissed being devoid of merit and is accordingly dismissed.

18. Consequently, the connected and pending miscellaneous application(s), if any, also stands disposed of.

Pronounced in open Court on this 18<sup>th</sup> day of March, 2026.

[JUSTICE NANDITA DUBEY]  
MEMBER (J)

[RASIKA CHAUBE]  
MEMBER (A)