

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

OA 2145/2024

WITH

OA 1107/2025 WITH MA 1655/2025

Ex L/ TEL Harbhajan Singh Bamrah and Ors. Applicant
Versus
Union of India and Ors. Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. R. S.Chillar, Advocate with

CORAM

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

Dated: 19th March, 2026

ORDER

Since the issue involved in both the OAs is same, for the purpose of decision, the facts of OA 2145/2024 are being mentioned.

2. The applicants, 37 in number, have filed this common OA praying for grant of special pension or reservist pension. The reliefs claimed read thus.

“(a) The Applicants be granted special pension in terms of Regulation 95 of Navy Regulations (pension), 1964 or reservist pension, by declaring Regulation 269, Regs Navy Par-III (Statutory) nullity or void to the extent of its

arbitrariness/illegality as well as its unintelligibility with 8% interest;

- (b) The Applicants may be granted a special pension released after having served 10 years and not considered for fleet Reserve service.*
- (c) Any other relief(s) which this Hon'ble 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 may also be granted to the Applicants;”*

3. The applicants were enrolled in the Indian Navy as sailors for an initial term of engagement of ten years. Prior to their discharge from service, there was an option for extension of service on completion of active service and being drafted into Reserve to become eligible for pension. As the records reveal they were discharged from service after their initial engagement period but were not drafted to the fleet. According to Regulation 92 of the Pension Regulations for the Navy 1964, they would have been entitled to a special or reservist pension which was denied to them on the ground that they were not drafted to the fleet reserve service. Against the denial of special or reservist pension, the applicants have filed the instant OA.

4. 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 3rd 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 their cases 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 their case the applicants have 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].

5. It was submitted that all the applicants had rendered more than ten years of active naval service and were released on completion of their initial engagement but solely due to organizational requirements. Learned counsel 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 applicants were not drafted to the Fleet Reserve, when such drafting itself had virtually ceased, results in manifest arbitrariness and hostile discrimination. The applicants, having served during critical periods including the wars and having earned war medals, cannot be deprived of pensionary benefits for reasons wholly beyond their control.

6. 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 applicants are entitled to Special Pension under Regulation 95 of the Navy (Pension) Regulations, 1964 or in the alternative, Reservist Pension.

7. Per contra, learned counsel for the respondents submitted that none of the applicants fulfill the statutory eligibility conditions for grant of either Service, Reservist or Special Pension. It was submitted that applicants 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.

8. 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. In order to appreciate the service particulars, the respondents have set out the same in a table, the relevant details whereof are noted hereunder:

Ex L/TEL Harbhajan Singh Bamrah 90433 (Applicant No. 1)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd.	From	To	Period	From
10 years	25.05.1966		10 years	25.05.1976

Ex NAI (AH) Devinder Singh 88032 (Applicant No. 2)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd.	From	To	Period	From
10 years	15.04.1963		10 years	15.04.1963

Ex TEL Eappenparambil Daniel Rajan 69346 (Applicant No. 3)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	18.01.1965		10 years	18.01.1975

Ex Sig. 1 Parma Nand 68719 (Applicant No. 4)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	21.10.1965		10 years	21.10.1975

Ex L/ Sig Satyabir Singh Chauhan 81559 (Applicant No. 5)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	23.01.1963		10 years	23.01.1973

Ex-POEL(P) Gurnam Singh 87103 (Applicant No. 6)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	06.03.1962		10 years	06.03.1972

Ex SEA-I Ved Prakash Gupta 81533 (Applicant No. 7)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	23.01.1963		10 years	23.01.1973

Ex PO (ELR) Nharakod Satheesan 86142 (Applicant No. 8)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	10.01.1961		10 years	10.01.1971

Ex PO (Tel) Vijay Narayan Kurandwadkar 88618 (Applicant No. 9)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
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Date Engd	From	To	Period	From
10 years	06.06.1964		10 years	06.06.1974

Ex LME Malkhan Singh Punia 88163 (Applicant No. 10)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	13.07.1963		10 years	13.07.1973

Ex SEA-I Jagmohan Singh 90262 (Applicant No. 11)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	07.04.1966		10 years	07.04.1976

Ex LM (E) P.K. Krishnamkuty Nair 88157 (Applicant No. 12)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	19.10.1963		10 years	19.10.1973

Ex L/TEL Jayaram Payyandan Poothatta 66645 (Applicant No. 13)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	05.10.1959		10 years	05.10.1969

EX P.O.EL(R) Raveendranathan Meeempat 87143 (Applicant No. 14)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	21.10.1961		10 years	21.10.1971

Ex LEM (R) Sudarshan Kumar 86061 (Applicant No. 15)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	21.10.1960		10 years	21.10.1970

**Smt Pramila Powar w/o
Lt Nandkumar Bapurao Pawar 86222 (Applicant No. 16)**

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	31.03.1961		10 years	31.03.1971

Ex SEA-I Jai Pal Singh 86817 (Applicant No. 17)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	13.07.1961		10 years	13.07.1971

**Smt. Deepa Pathak
w/o Ex EAP 3 Lt Dinesh Chandra Pathak 51238 (Applicant No. 18)**

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	17.08.1968		10 years	17.08.1978

Ex LS N. Sathyavan 81998 (Applicant No. 19)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	24.07.1963		10 years	24.07.1973

Ex LPM Rachhpal Singh Saini 47161 (Applicant No. 20)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	11.04.1956		10 years	11.04.1966

Ex PO TEL Vinod Kumar 88280 (Applicant No. 21)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	07.12.1963		10 years	07.12.1973

Ex POEL (P) Sagar Singh Parmar 87991 (Applicant No. 22)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	30.03.1963		10 years	30.03.1973

Ex PO G J Lourdu Maria Doss 83708 (Applicant No. 23)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	17.10.1965		10 years	17.10.1975

Ex PO TEL Siddottam Balaswamy Thomas 86234 (Applicant No. 24)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	31.03.1961		10 years	31.03.1971

Ex POELR Ramakrishnan Nambiar Thekke Karayath 88134 (Applicant No. 25)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	29.06.1963		10 years	29.06.1973

Ex L/TEL Hari Shankar Mishra 69371 (Applicant No. 26)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	22.01.1965		10 years	22.01.1975

Ex SEA-I Chandrasekara Rao Gopa Raju 87538 (Applicant No. 27)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	15.04.1962		10 years	15.04.1972

Ex LSA Prem Kumar 82167 (Applicant No. 28)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From

10 years	17.10.1963		10 years	17.10.1973
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Ex LS Abhai Singh 90393 (Applicant No. 29)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	30.09.1966		10 years	30.09.1976

Ex SEA-1 Kuldip Singh 82693 (Applicant No. 30)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	20.04.1964		10 years	20.04.1974

Ex POELA Mohan Das Monamcave Damodaran 87346 (Applicant No. 31)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	02.06.1962		10 years	02.06.1972

Ex LEMR Sham Sunder Dua 88060 (Applicant No. 32)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	30.03.1963		10 years	30.03.1973

Ex PO TEL Gurbachan Singh 87424 (Applicant No. 33)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	09.08.1962		10 years	09.08.1972

Ex L Tel Dalip Singh Mehta 68770 (Applicant No. 34)

Period of Engagement

Active Service			Fleet Reserve	
Date Engd	From	To	Period	From
10 years	17.01.1966		10 years	17.01.1976

Ex POME Yash Pal Arora 68365 (Applicant No. 35)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	16.01.1965		10 years	16.01.1975

Ex POELP Mohanan Kunniyoor 88055 (Applicant No. 36)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	30.03.1963		10 years	30.03.1973

Ex POELP Baskshish Singh Dadwal 69210 (Applicant No. 37)

Period of Engagement

<u>Active Service</u>			<u>Fleet Reserve</u>	
Date Engd	From	To	Period	From
10 years	19.10.1964		10 years	19.10.1974

In view of the above, learned counsel for the respondents contended that the applicants, having neither rendered qualifying service for Service Pension nor Reserve Pension and not fulfilling the eligibility criteria for Special Pension, hence are not entitled to any of the reliefs claimed and the OA is liable to be dismissed.

9. We have considered the rival submissions advanced on behalf of the applicants and the respondents and have carefully perused the material placed on record.

10. The core issue that arises for determination is whether the applicants are 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 in this regard by the Hon'ble Supreme Court in *T.S. Das* (supra) and subsequent decisions of this Tribunal.

11. However, we will first examine the issue of Reservist Pension before dwelling in detail on the entitlement of special pension. As per *T.S. Das* (supra) one needs to be drafted into Reserve to be entitled to Reservist Pension. None of the applicants were drafted into Reserve; hence they are not entitled to any relief, as prayed.

12. As for Special Pension, Regulation 95 of the Navy (Pension) Regulations reads as under:

"95. Special pensions and gratuity to sailors – When admissible – A special pension or gratuity may be granted at the discretion of the Central Government to sailors who are not transferred to the reserve and are discharged in large numbers in pursuance of Government's policy –

- (i) of reducing the strength of establishment of the Indian Navy; or*
- (ii) of re-organisation, which results in paying off of any ships or establishments.*

13. The Hon'ble Supreme Court in *T.S. Das* (supra), while interpreting Regulation 95 along with letter dated 3rd 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.

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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.

It is also important to quote Government of India letter dated 3rd July; 1976 for better appreciation of the judgment in

T.S. Das and the reason the critical date of 3rd July, 1976 has been indicated therein. The letter reads as under:-

“ No. D/5374/2/76/2214/S/D(N.II),
Government of India,
New Delhi, the 3rd 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. If 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."

14. From the above it is expressly clear that eligibility for Special Pension arises only in the cases of Sailors who were appointed prior to 3rd July, 1976, whose tenure of initial active service expired on or after 3rd 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 3rd July, 1976. The Hon'ble Supreme Court has further clarified that such sailors 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. Applying the above legal position to the facts of the present case, we find that most of the applicants stand on a materially different footing except applicant No.18 and 29. Admittedly, most of the applicants were discharged from naval service prior to the crucial cut-off date of 3rd July, 1976. Further, their service records demonstrate that they had voluntarily furnished "Unwillingness Certificates" opting not to continue in service beyond their initial engagement. Consequently, their discharge was not the result of any policy-driven reduction of naval strength, but flowed from their own conscious decision to exit service.

15. 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 Mumbai Bench cases, 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)*.

16. 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.

17. 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 clearly established that the applicants not being drafted to the Fleet Reserve had nothing to do with the policy decision taken on 3rd July, 1976 except applicants at Sl. No.18 and 29 who were in service on this critical date. In any event, once the applicants had voluntarily opted for discharge and submitted the unwillingness certificate, the question of denial of drafting to the Fleet Reserve becomes legally insignificant. 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.

18. 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 were discharged or who voluntarily opted for discharge prior to the critical cut-off date of 3rd 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 applicants except applicant No.18 and 29, neither completed the mandatory qualifying service of fifteen years for Service Pension nor rendered the prescribed reserve service for Reservist Pension nor were in service on the critical date of 3rd July, 1976. Having voluntarily exited service as non-pensioners, they cannot now claim for pensionary benefits on equitable considerations

contrary to the statutory scheme and binding judicial precedent.

19. Unlike other applicants a factual distinction exists in respect of Ex EAP 3 Lt Dinesh Chandra Pathak (Applicant No. 18) through LR Smt. Deepa Pathak and Ex LS Abhal Singh (Applicant No. 29). These two applicants were in service on the critical date of 3rd July, 1976 when Reserve Service was abolished in case of Indian Navy. They were discharged only on 17th August, 1978 and 30th September, 1976 respectively. Their cases, therefore, require separate consideration in the light of the ratio laid down by the Hon'ble Supreme Court in *T.S. Das (supra)*. Since their tenure of initial active service expired after the discontinuation of the Fleet Reserve Service pursuant to Government policy dated 3rd July, 1976, the restriction created by the said policy directly operated upon their service conditions. Consequently, the inability, if any, to draft them to the Fleet Reserve was not attributable to any voluntary act on their part but was a direct result of the policy decision discontinuing the Fleet Reserve establishment. Their cases thus stand on a different footing from those applicants who had been discharged prior to the cut-off date, i.e. 3rd July, 1976.

20. We thus find that Ex EAP 3 Lt Dinesh Chandra Pathak (Applicant No. 18) and Ex LS Abhal Singh (Applicant No. 29) in OA 2145/2024 satisfy the requirement indicated by the Hon'ble Supreme Court in *T.S. Das (supra)*. Accordingly, their cases are required to be considered for grant of Special Pension under Regulation 95 of the Navy (Pension) Regulations, 1964 and their entitlement cannot be rejected on the same reasoning applied to the remaining applicants.

21. Accordingly, while the Original Application stands dismissed in respect of the remaining applicants, it is directed that:

- (i) The claims of Ex EAP 3 Lt Dinesh Chandra Pathak (Applicant No. 18) through LR Smt. Deepa Pathak and Ex LS Abhal Singh (Applicant No. 29) in OA 2145/2024 for the grant of Special Pension are hereby allowed. The Respondents are directed to grant Special Pension to the said applicants under Regulation 95 of the Navy (Pension) Regulations, 1964, in accordance with the law laid down by the Hon'ble Supreme Court in *T.S. Das (supra)* within a period of three months from the date of receipt of a copy of this order.