

COURT NO. 1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

100.

OA 4028/2025

JWO Gururaja Adm Asst ..... Applicant  
Versus  
Union of India & Ors. .... Respondents  
For Applicant : Mr. Manoj Kumar Gupta, Advocate  
For Respondents : Mr. Vijendra Singh Mahndiyān, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE LT GEN C. P. MOHANTY, MEMBER (A)

ORDER  
13.03.2026

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and the prayer made in Para 8 reads as under:-

- "A. To quash and set aside the Impugned order by which pre-mature discharge of the applicant is rejected by the respondents vide letter NO. AFRO/RRD/890 dated 02 Dec 2025 (Annex-A1.), and/or
- B. To direct the respondent to permit the applicant to proceed on discharge on compassionate grounds, so as to enable him to join civil post, considering no career enhancement avenue for him in IAF; and/or
- C. Appropriate directions to discharge the applicant from service of IAF, on extreme compassionate grounds, under Para-3(c) of AFO-04/2023, in earliest possible time, as he has to join Civil employment by 05 Jan 2025; and/or
- D. Any other just and equitable order in the interest of justice may kindly be passed, in the interest of justice and fair play."

2. The applicant was enrolled in the Indian Air Force on 1<sup>st</sup> July, 2015 under the Sports Quota as an Administrative Assistant. He is said to have represented the country as well as Indian Air Force in various national and international tournaments, winning medals including Silver in 2018 Commonwealth Games, Bronze in 2022 Commonwealth Games, and Gold in 2016 South Asian Games and 03 medals in Commonwealth Championships (2016, 2017 and 2021), and also represented India in the 2021 World Championship. It is pointed out by the applicant that he was promoted to the higher post of the SGT and thereafter as JWO on 1<sup>st</sup> November 2019. However, further promotion was denied to him due to policy constraint, as, according to the policy only two out of turn promotions are granted for outstanding performance in the field of sports.

3. It is the contention of the applicant that he has been now selected for the post of Assistant Director, Cooperative Society Audit Department, State of Karnataka against the Sport Quota and he has received offer of appointment and confirmation from the said authority and the date of joining to the post has extended now, even though initially it was up to 05.01.2026, he is now required to join very soon failing

which, the appointment shall be cancelled. It is the contention of the applicant that he belongs to a humble rural family with dependent aged parents and is posted at Air Force Station Hindon, Ghaziabad. The civil post offered to him gives him better pay stability, social security and career growth and therefore in accordance to the policy of the Air Force as contained in Air Force Order 4/23, annexure A-3, the applicant had submitted an application for seeking premature discharge from service for joining the post in question.

4. Learned counsel for the applicant refers to Para 3 clause (c) of the aforesaid policy (AFO 4/23), and argues that on valid personal reasons deserving sympathetic considerations, premature discharge from service can be granted on this compassionate ground. Learned counsel further invites our attention to the procedure for processing of the application as contained in para 7(b) of the AFO 4/23 and argues that applicant had submitted an application vide annexure A-4 on 25<sup>th</sup> September, 2025 more than 7 months back and it has been rejected without proper consideration in accordance to the policy. He takes us through the application to indicate that a compassionate ground for seeking

premature discharge has been made out primarily on the ground that the applicant gets better career development, as prospects of further promotion in the Indian Air Force after getting two out of turn promotion, the applicant does not have any better chance of career progression or promotion in the Indian Air Force and looking to his rural background and the family responsibilities, it is stated that a fit case for grant of premature discharge on compassionate ground is made out.

5. Learned counsel for the applicant further invites our attention to annexure A-4(Colly) dated 3<sup>rd</sup> August, 2024 and indicates that taking note of his outstanding sports performance as is available on record the State Government of Karnataka, in the Cooperative Society Audit Department have granted him an appointment. This is a one time offer awarded to the applicant and as the appointment order itself has been issued on such consideration on 22.08.2025, if the applicant does not join within a stipulated period, the offer of appointment would be cancelled. He takes us through the policy in question and argues that the case for discharge from service on compassionate ground is made out and he points out that in the Indian Air Force very rarely airmen are only

discharged and the Air Force would not suffer adversely if premature discharge from service is granted to the applicant.

6. Notice was issued to the respondents on 19.12.2025 and in spite of certain opportunities being granted when the counter affidavit was not filed, on 20.02.2026 taking note of the order earlier passed by us on 16.02.2026 we had indicated that if the counter affidavit is not filed by today, we will decide the matter on merit based on the material available on record.

7. Accordingly, learned counsel for the respondents invites our attention to the policy in question and argues that the policy only lays down certain procedure and guidelines for the purpose of granting discharge on compassionate ground. He argues that on compassionate ground a case for premature discharge from service is not made out, grant of such discharge is not a vested right which can be executed in the form of an application before a Statutory Tribunal. He further invites our attention to the clause (c) of Para 3 of the policy to say that only for valid personal reasons deserving sympathetic consideration compassionate discharge from service can be granted. Taking us through the policy in question learned counsel for the respondents tries to

emphasise before us that the applicant has not made out any case on compassionate or sympathetic consideration, on the contrary the grounds made out are career progression and non-availability of avenues for promotion is not a ground with AFO. Learned counsel for the respondents points out that as per the policy looking to the outstanding performance of the applicant, applicant has been granted two out of turn promotions within a short period of less than 10 years and therefore the compassion for his outstanding performance has already been bestowed upon him by the Indian Air Force.

8. Learned counsel for the respondents invites our attention to Para 16 of the policy in question and argues that the Airman is obliged to apply for NOC for seeking civil employment, has to serve for a period of 20 years which is an obligation imposed upon him at the time of appointment and in derogation to this, in exceptional cases only on extremely compassionate grounds, in a deserving cases, the Competent Authority can give permission for premature discharge. It is submitted that the case was evaluated by the Competent Authority in the backdrop of the claim made by the applicant and finding no extreme compassionate ground made, the claim of the applicant was rejected.

9. Learned counsel for the respondents further invites our attention to the principles laid down by the Hon'ble Supreme Court in the case of Amit Kumar Roy Vs. Union of India and ors. (Civil Appeal 4605-4606 of 2019) in support of his contention to say that discharge from service on compassionate ground is not a right and therefore on the grounds canvassed in this application, the benefit of discharge cannot be granted. He further invites our attention to a judgment rendered by a Coordinate Bench of this Tribunal in OA 1673/2024 Cpl Avoy Sinha Babu Vs. Union of India and Ors. decided on 19<sup>th</sup> August, 2025 to say that similar matter have already been considered by this Tribunal and the case has been rejected.

10. We have heard learned counsel for the parties and have perused the record. The only question warranting consideration before us is as to whether on the basis of the grounds canvassed by the applicant in this application, can judicial intervention/review of an administrative decision by a Statutory Tribunal be undertaken and premature discharge from service granted to the applicant. A perusal of the records clearly indicates that the applicant was inducted into the service of Indian Air Force as a special case on Sports

Quota and after his induction into the service, he has been granted two out of turn promotions within a short span of four years. Records further indicates that under Para 16 of the policy in question, it is clearly stipulated that 'Airmen issued with NOC for applying for government employment shall not be discharged before completing the obligatory period of service applicable, i.e., 20 years and therefore under the contract of service and the policy itself once the applicant has chosen to join the Indian Air Force, he has an obligation to serve the force for a period of 20 years. That being so, the only issue warranting consideration is as to whether any sympathetic or compassionate ground for discharge is made out in the facts and circumstances of the case. As the policy in question clearly stipulates that the grounds for seeking premature discharge are compassionate/sympathetic grounds and in this case the applicant wants to bring his case within the ambit of sub clause (c) of Para 3 wherein for valid personal reasons deserving sympathetic consideration, premature discharge can be granted. The valid personal reasons are narrated by the applicant in annexure A-4. At page 34 in Para 1, the applicant speaks about his outstanding sports performance,

in para 2 about the post held by him and also two out of turn promotion granted to him in November, 2015 and 2019. In para 3 he speaks about the offer received from the State Government of Karnataka. Scanning of the application indicates that the only reason given by the applicant to bring his case within the framework of sympathetic and compassionate ground are contained in Para 9 which reads as under:-

“9. At this juncture when I have a new career welcoming and promises a better socio-economic status and offers opportunity to accomplish my dream. I request you august office with folded hand to consider my case compassionately/sympathetically and I may please be granted discharge on extreme compassionate ground to look after my old mage parents and which also enable me to join civil post and enhance my career being outstanding sportsman, for which I would be grateful to you forever.”

The aforesaid clearly indicates that the applicant wants to seek premature discharge for career development on the ground that he had already earned two out of turn promotion in the Indian Air Force, chances of further career development in the Indian Air Force are bleak. However for the purpose of bringing his case within the ambit of sympathetic consideration, on account of old age of parents

no specific justified reason, like ailment etc. or situation, is established or proved.

11. Taking note of all the circumstances the issue is as to whether a person who is appointed to the Armed Forces of the country can seek premature discharge from service as a matter of right, the issue is no more in contravention as the Hon'ble Supreme Court in the case of Amit Kumar Roy (Supra) itself in para 15 has referred to the right available to a member of the Armed Forces under Article 19(1) (g) of the Constitution and the principle curled out by the Hon'ble Supreme Court in Para 15 reads as under:-

"15. We are unable to accept the submission of Mr Sankaranarayanan that the appellant had an unqualified right under Article 19(1)(g) of the Constitution to leave the service of the Air Force. The provisions of the Air Force Act, those contained in the rules and the terms of engagement of the appellant belie such an assertion, AFO 14/2008 emphasizes aspects such as the criticality of the trade and the exigencies of service. They need to be verified and assessed before permission is granted. A person who has been enrolled as a member of the Air Force does not have an unqualified right to depart from service at his or her will during the terms of engagement. Such a construction, as urged on behalf of the appellant, will seriously impinge upon manning levels and operational preparedness of the armed forces. With the rapid advancement of technology, particularly in its

application to military operations, there has been a reconfiguration of the human and technological requirements of a fighting force. The interests of the service are of paramount importance. A balance has been sought to be drawn between the interests of the service with situations involving requests by persons enrolled to take civilian employment. This balance is reflected in the provisions contained in the Air Force orders, in this case AFO 14/2008. A person enrolled cannot assert a general right to act in breach or defiance of those orders.”

From the aforesaid it is clear that the interests of service is of paramount importance and an employee who joins the Armed Forces cannot leave service at his own free will and he is bound by the mandate of Article 33 of the Constitution (curtailing his Fundamental Rights), as per rules and the rights available are based on the considerations which require the approval by the Competent Authority. It has been held that the grant of premature discharge is not a right which is available to an individual. Discharge from service under Air Force Order 4/23 which is paramateria with AFO 14/2008 has already been considered by this Tribunal in the case of Sgt Vikram Singh Vs. Union of India and Ors. (OA 579/2025) and it has been held by the Bench that discharge from service cannot be claimed as a matter of right and nothing in the Air Force order shall interfere with the

power of Air Headquarters in suspending, withholding or refuting the same.

12. After evaluating the principles based on the law laid down in the case of *Amit Kumar Roy (supra)*, in the case of *Sgt Vikram Singh (Supra)* from para 31 onwards, the Coordinate Bench of this Tribunal has taken note of provisions of Article 33 of the Constitution as reproduced by the Hon'ble Supreme Court in Para 9 of its judgments. In the case of *Amit Kumar Roy(Supra)*, the Hon'ble Supreme Court thereafter refers to various provisions of Air Force Act, 1950, constitutional provisions and various procedures followed in the Air Force Act, 1950 for the purpose of enrolment, i.e., the procedure for enrolment, the different modes for enrolment etc. It is found that on being attested after enrolment under Section 16 of the Air Force Act, 1950, the individual subscribe to an oath of affirmation to bear elegance to the Constitution and to serve the Indian Air Force. The tenure in the Indian Air Force is subject to pleasure of the president under the Air Force Act, 1950. Finally the Hon'ble Supreme Court in the case of *Amit Kumar Roy(supra)* held that Air Force Act, 1950 enacted under Article 245, 246 of the Constitution imposes various restrictions. Section 13, 14 and

15 of the Air Force Act, 1950 deals with the process of enrolment and validity thereof signifying the commitment undertaken by a person on joining the Air Force. The Hon'ble Supreme Court emphasises on the importance of commitment and the mandatory consent to the terms of service. The Coordinate Bench of this Tribunal had considered all these aspects and from Para 34 onwards has, in detail, discussed the issue and finally takes note of the findings recorded by the Hon'ble Supreme Court in Para 15 of its judgment passed in the case of *Amit Kumar Roy (Supra)* and the applicability of the constitutional rights available to a member of Armed Forces under Article 19(1)(g) of the Constitution is discussed in Para 15 of the judgment (as reproduced in Para 11 hereinabove).

13. The Hon'ble Delhi High Court also considered this aspect in the case of *Corporal Manoranjan Kumar Vs. Union of India and Ors.* (WP 494/2017). The AFO applicable has been discussed by the Hon'ble Delhi High Court in the Para 18 and 19 of its order. The policy has also been discussed and in Para 11, the findings recorded by the Hon'ble Delhi High Court reads as under:-

“11. We have considered the rival submissions of the parties. At the outset, we may note that we are not

impressed by the explanation given by the petitioner for not seeking prior approval and routing his application through proper channel while applying to the post of Assistant Manager in Kolkata Port Trust. If the petitioner could make an application to the Kolkata Port Trust directly and even appear in the examination, there is absolutely no justification for him not having routed his application through proper channel on applying for prior permission to the competent authority in the IAF before making such application.”

In the case of R. P. Yadav Vs. Union of India and Ors. also the Hon'ble Supreme Court addressed the issue in the following manner:-

“An incidental question that arises is whether the claim made by the respondents to be released from the force as a matter of right is in keeping with the requirements of strict discipline of the naval service. In our considered view the answer to the question has to be in the negative. To vest a right in a member of the Naval Force to walk out from the service at any point of time according to his sweet will is a concept abhorrent to the high standard of discipline expected of members of defence services. The consequence in accepting such contention raised on behalf of the respondents will lead to disastrous result touching upon the security of the nation. It has to be borne in mind that member of the defence services including the Navy have the proud privilege of being entrusted with the task of security of the nation. It is privilege which comes the way of only selected persons who have succeeded in entering the service and have maintained high standards of efficiency. The position is clear that a sailor is entitled to

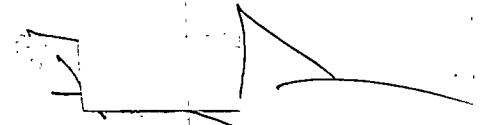
seek discharge from service at the end of the period for which he has been engaged and even this right is subject to the exceptions provided in the Regulations. Such provisions, in our considered view, rule out the concept of any right in a sailor to claim as of right release during subsistence of period of engagement or re-engagement as the case may be. Such a measure is required in the larger interest of the counter. A sailor during the 15-20 years of initial engagement which includes the period of training attains a high degree expertise and substantial amounts are spent from the exchequer.”

14. Taking note of the principles of law as elaborately detailed by the Hon'ble Supreme Court so also by the Hon'ble Delhi High Court and by this Tribunal in various cases, we are of the considered view the same principle would apply in the case in hand also.

15. In the light of the detailed legal principles as has been laid down in the cases referred to hereinabove, we are of the considered view that in the facts and circumstances of the case on evaluating the grounds stated by the applicant in his application for seeking premature discharge from service, no valid personal reason deserving sympathetic consideration is available. The grounds canvassed by the applicant do not fall within the compassionate ground as is contained in Para 3 of the policy in question, i.e., AFO 4/23 and analysing the case

in the backdrop of the principles laid down by the Hon'ble Supreme Court in the case of *Amit Kumar Roy (supra)* and the Hon'ble Delhi High Court in the case of *Corporal Manoranjan Kumar (Supra)* and the consistent view of this Tribunal in various judgments referred to in the order, we see no reason to interfere into the matter. Finding no case made out for premature discharge, we dismiss the application.

16. OA stands dismissed.



[JUSTICE RAJENDRA MENON]  
CHAIRPERSON



[LT GEN C. P. MOHANTY]  
MEMBER (A)

Priya