

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

OA 465/2019

**Lt. Col Perumal Thirumal Jayaraj (Retd)..... Applicant
Versus
Union of India and Ors. Respondents**

**For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC**

CORAM

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

O R D E R

Brief Facts

The applicant, a Lt. Colonel, was commissioned in the Territorial Army (TA-42336) on 15.03.1997 and on attaining the age of 54 years superannuated from TA Service wef 28th February 2018 after rendering 19 years 01 month and 20 days of Embodied Service. The total service of the applicant was 20 years 11 months and 13 days. On being denied the Service Pension, the applicant invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 filed this OA 465/2019 praying to direct the respondents to quash the impugned order dt. 17.12.2018 and to treat the applicant

as late entrant and to award him all retiral benefits including the service pension wef 01.03.2018 @ 18% interest condoning the shortfall of 315 days of service.

Contentions of the Parties

2. The learned counsel for the applicant submitted that the applicant was commissioned in the Territorial Army as a Second Lieutenant and superannuated on 28.02.2018 on completion on 54 years of service after rendering 19 years, 01 month and 20 days of embodied reckonable service and has filed an application for condonation of shortfall of 10 months and 10 days of service to make him eligible for grant of service pension, however the same was not agreed to and rejected vide letter No. 84881/TA-42336/TA-4 dt. 17.12.2018.

3. It is further argued that the applicant also submits that he is covered under the "Late Entrant" policy of the Respondents as per MoD Letter dt. 30.10.1987 with regard to 4th CPC and the Indian Army Pension Regulations, Para 6.1(a) of MoD Letter dt. 03.02.1988. The applicant in support of his case further submitted that the provision of condonation of shortfall of service can also be applied to TA officers as per GoI MoD letter No. 4684/DIR (Pen)/2001 dt. 14.08.2001 Section 5, 5(a) & 5(b).

4. Reliance has also been placed on the following judgments passed by the Principal Bench, New Delhi

- (i) Maj S.D. Singh v. UOI & Ors. in (TA 46/2010) WP (C) No.2713/2003
- (ii) Lt. Col I.K. Talwar v. Union of India & Ors. (TA 771/2009)
- (iii) Lt. Col. Charanjit Singh v. Union of India & Ors. (OA 332/2016)
- (iv) Col Nandu Kumar B N v. Union of India & Ors. (OA 1403/2020)
- (v) Lt. Col D.M. Daffadar v. Union of India & Ors. (OA 433/2017)
- (vi) Col Jaspal Singh Anand v. Union of India & Ors. (OA 1161/2022)
- (vii) Order of Hon'ble High Court of Delhi W.P. (C) 1715/2025 UOI Vs. Col Jaspal Singh Anand dt. 22.08.2025.

5. On the other hand, learned counsel for the respondents refuted the contentions of the applicant and stated that the provisions for condonation of the shortfall in qualifying service for grant of pension is for PBOR (Personnel Below Officer Rank) and not for Commissioned Officers. The Respondents further submit that as per Para 186 of Pension Regulations for the Army 2008, twenty years of embodied service is required for grant of Service Pension to Territorial Army Officers and since the total Qualifying (embodied) Service for pension of the Applicant was less than 20 years, he superannuated without any pensionary benefits. The Applicant's application requesting for condoning the shortfall of service required for grant of Service Pension was rejected and the same was intimated to the Applicant vide letter dated 17.12.2018. The Respondents further submitted that no

policy for condonation of delay in shortfall of service of a Commissioned Officer exists. They have also contended that the Late Entrant Provision is applicable only to Regular Army Officers and is not applicable to TA Officers vide Regulation 34 of Pension Regulations for the Army, 2008 (Part I). Hence, the Respondents prayed to dismiss the Application.

Analysis

6. We have heard the arguments of both the parties and perused the documents placed on record.

7. In view of the submissions made by the parties, the question that needs consideration by this Tribunal is (a) Whether a Territorial commissioned officer is entitled to the same pensionary benefits as a regular commissioned Army Officer, (b) Whether the applicant is entitled to the service pension by treating him as a "late entrant," for which atleast 15 years' service (without weightage) is required for grant of service pension.

8. At this stage it may be relevant to reproduce Regulation 182 Chapter IX, Section-1 of the Pension Regulations for the Army, 2008, Part-I for Territorial Army:

“(a) 182. The grant of pensionary awards to the service personnel shall be governed by the same general Regulations as are applicable to the corresponding personnel of the Army except where they are inconsistent with the provisions of Regulations in this chapter. These Regulations shall not apply to those who are :

(i) Civil Government servants holding permanent appointments, and

(ii) Retired Civil Government Servants.

9. As per Regulation 182 the grant of pensionary award to members of Territorial Army shall be governed by same general regulations as are applicable to the corresponding personnel of the Army. The late entrant clause is indicated in Sub-section II, Regulation 34 of the Pension Regulations for the Army, 2008, Part-I, which (as indicated in Regulation 28 of the same Chapter) is meant for regular commissioned officers and reads as under:

(b) Minimum Qualifying Service for Earning Retiring Pension.

34. The minimum period of actual qualifying service (without weightage) required for earning a retiring pension shall be 20 years (15 years in the case of late entrants).

Explanation: For purpose of the Regulations in the Chapter, a 'late entrant' is an Officer who is retired on reaching the prescribed age limit for compulsory

retirement with at least 15 years of service (without weightage) qualifying for pension but whose total qualifying service is less than 20 years (without weightage)."

10. The issue whether the 'late entrant' clause is applicable to Territorial Army (TA) personnel has been affirmed by Hon'ble Supreme Court in the case of **Union of India Vs. B.D. Mishra**, Civil Appeal D. No. 28183 of 2013 duly stating that "no substantial question of law of general/public importance arises for our consideration. The prayer for leave to appeal is accordingly declined and the application dismissed. However, it is pertinent to mention here that while passing order in B.D. Mishra Vs. UOI the AFT had placed reliance on the order in OA 165 of 2010, **Major S.D. Singh (Retd.) & Ors. v. UOI** dt. 19.10.2012. This order however, has been challenged in the Hon'ble Apex Court vide Dy No. 822/2014 and the judgment is still pending. Since the matter is not stayed there are catena of judgments of this Tribunal extending the late entrant clause to the Territorial Army officers. In the case of Lt. Col Charanjit Singh (Retd.) v. UOI, OA 332/2016, this Tribunal while explaining the underlying principle with regard to pensionary benefit as enunciated both in Pension Regulations for the

Army, 1961 and 2008 has observed that despite the differences in terms of service between the Regular Army and other elements like TA and DSC the qualifying parameters for pension remained the same. It has further been observed in Para 10 to 15 as under:

"10. We find that the issues before this Court are (a) Whether a TA commissioned officer is entitled to the same pensionary benefits as a regular commissioned Army Officer, (b) Whether the total service of the applicant adds upto 17 years, 3 months and 13 days, as claimed by the applicant, and (c) whether the applicant can claim status as a 'late entrant', which would then qualify him for service pension, as he would have more than 15 years of qualifying service for pension.

11. We find that Para 292 of Chapter V of the Pension Regulations of the Army 1961, which deals with the Territorial Army, clearly states that grant of pensionary awards to members of the Territorial Army shall be governed by the same general regulations as are applicable to the corresponding personnel of the Army, except where they are inconsistent with the provisions of regulations in this Chapter. This aspect has been clarified subsequently by Govt. of India vide its policy letters with regard to implementation of Fifth and Sixth Central Pay Commission recommendations, vide its letters of 30.10.1987 and 03.02.21998, whereby TA officers have been clubbed with regular commissioned Army officers.

12. We also find that the total service of the applicant works out to 17 years, 3 months and 13 days, as admitted by the respondents in their counter affidavit, and stated in IHQ of MoD (Additional Directorate General Territorial Army) letter No. 07.11.2006.

13. Counsel for the applicant has argued that, the term 'late entrant' is essentially meant for TA officers as they are the only officers who are commissioned at a higher age and are more liable to superannuate without completing full qualifying period for earning service pension. Respondents, on the other hand, contend that the provisions of Chapter II of the Pension Regulations of

the Army (PRA) as mentioned in Para 14 and Para 26), are only applicable to regular commissioned officers and officers of the Military Nursing Service, and thus are not applicable in entirety to officers of the Territorial Army, who are covered by Chapter V of the PRA 1961. Para 292 of PRA 1961 refers to exceptions in equality of pension regulations between the TA and Regular Army when it stipulates "where they are inconsistent with the provisions of regulations in this Chapter". The respondents thus argue that the provision of late entrant' is only applicable to regular commissioned officers of the Indian Army and the Military Nursing Service, but not to the officers of Territorial Army.

14. We find the arguments put forth by the respondents on this aspect quite fallacious, keeping in view the catena of judgments by various Benches of this Tribunal since 2010.

In fact, the Hon'ble Apex Court has, on one occasion, declined to allow leave to appeal' to the respondents against such a judgment of the Tribunal, ie. Order of 29.11.2013 by the Hon'ble Supreme Court in the case of Union of India Vs. B.D. Mishra, Civil Appeal D. No. 28183 of 2013 (for preliminary hearing). The point which clearly stands out in favour of the applicant is that, if this provision of 'late entrant' is not applicable for a TA officer, then, who else is it meant for? Thus, we find that the applicant is entitled to the categorization of 'late entrant, and consequent pensionary benefits.

15. Accordingly, the OA bears merit and is allowed. The applicant is granted service pension with effect from 01.06.2015. Arrears will be paid to him within a period of four months, failing which, he will be entitled to interest @ 8% per annum."

11. The Hon'ble Supreme Court in case of UOI v. Abhiram Verma, while explaining the object and purpose of "late entrant" has observed in para 11 as under:

"11. In light of the above findings, it is required to be considered whether the respondent can be said to be a "late entrant" and is entitled to the benefit of Regulation 15 as a "late entrant" and the pensionable

benefits or not? Regulation 15 reads as under:

"Regulation 15 - Late Entrants

"15. For purposes of the regulations in this Chapter, a 'late entrant' is an officer who is retired on reaching the prescribed age limit for compulsory retirement with at least 15 years commissioned service (actual) qualifying for pension but whose total qualifying service is less than twenty years (actual)."

As per Regulation 15, a "late entrant" is an officer who is retired on reaching the prescribed age limit for compulsory retirement with atleast 15 years commissioned service (actual). As the respondent did not retire on reaching the prescribed age limit for compulsory retirement, the respondent cannot be said to be a "late entrant". The purpose and object seems to be to give 5 years relaxation/grace for qualifying service for earning a retiring pension. As per Regulation 25(a), the minimum period of qualifying service actually rendered and required for earning a retiring pension shall be 20 years. However, if an officer is not able to complete the minimum period of qualifying service, i.e., 20 years and before completing 20 years of service his attaining the age of superannuation and is retired on reaching the prescribed age limit of compulsory retirement, but has completed 15 years of qualifying service, he is considered as a "late entrant" and is entitled to pensionary benefits by getting 5 years grace period. Therefore, to that extent the same can be said to be a relaxation/grace of 5 years for getting the benefit of pensionable benefits provided the case falls within Regulation 15 and an officer is a "late entrant"

12. In the instant case, the applicant has rendered more than 19 years of embodied reckonable service, hence he is entitled to be considered as 'late entrant'. In view of the above, OA 465/2019 is allowed. The applicant is granted service pension with effect from the date of retirement, since there is no delay in filing this OA as the applicant superannuated in the year 2018. Arrears of the service pension will be paid to him within a period of four months,

failing which the respondents shall be liable to pay interest @ 6% per annum till the date of actual payment.

13. No order as to costs.

14. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 28th day of January, 2026.

[JUSTICE NANDITA DUBEY]
MEMBER (J)

[RASIKA CHAUBE]
MEMBER (A)

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