

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

OA 487/2025

Ex AC Pulimamidy Prathap Reddy

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. Ravi Kumar, Advocate
For Respondents : Mr. R.S. Chillar, Advocate
Mr. P.K. Yadav, OIC, Legal Cell

CORAM :

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

ORDER

The applicant vide the present OA makes the following prayers:-

"(a) To direct the respondents to grant the benefit of Special Pension to the Applicant with the arrears and interest @12% p.a. wef three years prior to the date of filing of this application.

(b) To direct the respondents to grant all other consequential benefits accrued in favour of the applicant.

(c) Any other just and equitable order in the interest of justice may kindly be passed. "

2. The applicant was enrolled in the Indian Air Force on 06.04.1963 and was discharged from service with effect from 15.01.1973 after completion of 09 years and 284 days of qualifying regular service. The applicant was however, not transferred to any

Air Force Reserve service as has been submitted by the respondents. The applicant sent a representation notice on 26/06/2024 requesting the special pension.

3. Applicant is claiming special pension in the light of orders dated 12.05.2022 in OA 1049/209 *Cpl Kandasamy T (Retd.) vs. UOI & Ors.*, in OA 1926/2018 titled as *Ex Cpl R S Sahgal vs. UOI & Ors.* decided on 15.09.2022, order dated 25.07.2023 in OA 194/2019 in *Ex LAC Somprakash (Retd.) vs. UOI & Ors.* and vide order dated 18.10.2024 in OA 1730/2021 in *Cpl Harpal Singh Yadav (Retd.) vs. UOI & Ors.*

4. The respondents contented that since the applicant had a total of only 9 years and 284 days of service, he was not granted any kind of pension. However, by virtue of his service length, he was eligible only for Service gratuity in terms of Regulation 127 which was paid to him at the time of discharge from the service.

Analysis

5. The observations of the Hon'ble Supreme Court in *T. S Das & Ors.* are relevant while taking decision with respect to Reservist Pension and special pension. The relevant Paras 21, 22, 23 and 25 are to the effect :-

"21. The original applicants contend that if the Government Policy dated 3rd July, 1976 is applied to the serving Sailors, inevitably, will result in retrospective application thereof to their detriment. That is forbidden by Section 184-A of the Act. This argument does not commend to us. In that, the effect of the Government Policy is to disband the establishment of the

Reserve Fleet Service with effect from 3rd July, 1976. As found earlier, drafting of Sailors to the Reserve Fleet Service was not automatic; but dependent on an express order to be passed by the competent Authority in that behalf on case-to-case basis. The Sailors did not have a vested or accrued right for being placed in the Reserve Fleet Service. Hence, no right of the Sailors in active service was affected or taken away because of the Policy dated 3rd July, 1976. Even the argument of the original applicants that the interpretation of expression "if required" occurring in Regulation 269(1) bestows unequal bargaining power on the Government is devoid of merits. The validity of Regulation 269(1) was not questioned before the Tribunal nor any relief was claimed in that behalf. Therefore, this argument is unavailable to the original applicants. In any case, on a conjoint reading of the Regulations governing the Service Conditions of the Sailors and more particularly having noticed that it is the prerogative of the Government to place the Sailors to the Fleet Reserve Service; and at the same time option was given to the Sailors to opt for discharge in terms of Section 16 of the Act, we fail to understand as to how such dispensation can be termed as unequal bargaining power. The consequence of not placing the concerned Sailor to the Fleet Reserve Service may result in deprivation of Reservist Pension. However, original applicants may be entitled to get a Special Pension under Regulation 95 of the Pension Regulations, being a separate dispensation for such Sailors, unless discharged by way of punishment under Regulation 279.

22. Accordingly, we hold that none of the applicants before the Tribunal are entitled for Reservist Pension in terms of Regulation 92 of the Naval (Pension) Regulations, 1964. The Tribunal has relied on other decisions of other Benches of the same Tribunal, which for the same reason cannot be countenanced.

Re: Special Pension

23. The next question is whether the Sailors appointed before 1973 were entitled for a Special Pension, in terms of Regulation 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 Regulation 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 reorganization, which results in paying off of any ships or establishment. In the present case, Clause (i) of Regulation 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 3 rd 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 3rd July, 1976 it has entailed in reducing the strength of establishment of the Indian Navy to that extent.

24.

25. Thus understood, all Sailors appointed prior to 3 rd 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 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."

6. The order of *T S Das & Ors.* (Supra) was for sailors of the Indian Navy. However, the same principles laid there will be applicable to the personnel of Indian Air Force. Regulation 136 of the Pension

Regulations for the Air Force, 1961 Part-I with respect to Reservist Pension provides to the effect :-

"136. (a) A reservist who is not in receipt of a service pension may be granted, on completion of the prescribed period of nine years regular and six years reserve qualifying service, a reservist pension of Rs. 10.50 p.m or a gratuity of Rs. 800 in lieu.

(b) A reservist who is not in receipt of a service pension and whose period of engagement for regular service was extended, and whose qualifying service is less than the total period of engagement but not less than 15 years may, on completion of the period of engagement or on earlier discharge from the reserve for any cause other than at his own request, be granted a reservist pension at the above rate or the gratuity in lieu.

(c) Where a reservist elects to receive a gratuity in lieu of pension under the above clauses, its amount shall, in no case, be less than the service gratuity that would have accrued to him under regulation 128 based on the qualifying regular service, had he been discharged from regular service.

Note: The option to draw a gratuity in lieu of pension shall be exercised on discharge from the reserve and once exercised shall be final. No pension/gratuity shall be paid until the option has been exercised."

As per the reasoning given in the *T S Das & Ors.* (Supra) one has to be drafted into Reserve to avail the benefits of Reservist Pension. In the order *ibid*, reference was made to Regulation 92(2) of the Pension Regulations for the Navy 1964 which are in substance similar to Regulation 136(b) of the Pension Regulation for the Air Force 1961 Part -I . However, the fact that the applicant was not drafted into Reserve, hence the reservist pension cannot be granted to him.

7. The entitlement and eligibility condition for grant of Special Pension are stipulated in Para 144 of the Pension Regulations for the Air Force, 1961 Part-I which reads as under :-

"Special Pension or Gratuity may be granted at the discretion of the President, to individuals who are not transferred to the Reserve and are discharged in large number in pursuance of government policy-

a) of reducing the strength of Establishment of the Air Force;

or

b) of re-organisation, which results in disbandment of any units/formation."

8. In case of Air Force, it is pertinent to mention that the scheme for 'Reserve Service' which started in 1964 was suspended in 1972 by the Indian Air Force pursuant to the decision in the Air Force Commanders Conference held in 1972. Following this the order in this regard was issued on 3rd October 1972, wherein it was clearly stated by the Air Chief that "with immediate effect, no airman is to be inducted into the regular Airforce reserve". The letter dated 3rd October 1972 is reproduced below:

***370231/209
Air HQ/31722/54/Per-4***

***Air Headquarters,
New Delhi-11
3 Oct 72***

List 'B'

REGULAR AIR FORCE RESERVE – AIRMEN

In the Air Force Commanders' Conference held on 21-23 Aug 72, it was decided that the 'Reserve Scheme' should be suspended without abrogating the Reserve and Auxiliary Air Forces Act, 1952.

2. In pursuance of this decision, CAS has approved the adoption of the following measures for progressive disbandment of the existing Reserves:-

(a) With immediate effect no airman is to be inducted into Regular Air Force Reserve.

(b) Airmen who are on the reserve list at present be called upon to indicate their option for continuance or absolvment from the Reserve.

(c) Those who elect for absolvment are to be released after obtaining the sanction of the

- competent authority. Those who opt to continue in the Reserve be permitted to complete their liability.
3. Detailed instructions for the implementation of para 2(a) are being issued separately by Air Force Record Office. Para 2(b) and (c) are being actioned by this Headquarters (Dte of Org/Aux & Res).
 4. This is for your information.
 5. Please acknowledge.

Sd/-
(UL DADHWAR)
Group Captain
Director of Organisation
Air Officer i/c Administration

Copy to :
Air Force Record Office.
DPA.

In this regards, Paras 23 and 25 of *T S Das & Ors.(supra)* are particularly relevant which are being reiterated:-

Re: Special Pension

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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 3rd July, 1976 it has entailed in reducing the strength of establishment of the Indian Navy to that extent.

25. Thus understood, all Sailors appointed prior to 3 rd 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 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."

9. Based on the above analogy, the fact that the applicant was in service in the crucial date of 3 October 1972 when the reserve service was disbanded in the IAF. The applicant is thus held entitled to the grant of Special Pension with effect from the date of his discharge which the respondents are directed to grant to the applicant with effect from a period of three years prior to the date of filing of the present OA. The amount of arrears as directed hereinabove of the grant of Special Pension shall be paid by the respondents within three months from the date of receipt of the copy

of this order failing which, the applicant will be entitled to interest @6% p.a. from the date of receipt of copy of the order by the respondents.

10. The OA 487/2025 is thus disposed of accordingly.

Pronounced in the Open Court on the 2nd day of April, 2026


JUSTICE NANDITA DUBEY)

MEMBER (J)


(RASIKA CHAUBE)

MEMBER (A)