

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

OA 583/2018

Ex Cpl Kiran Paul Kanikaram Applicant
Versus
Union of India and Ors. Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Dr. V.S. Mahandiyar, Advocate
Sgt Pankaj Kr. Yadav, DAV In-charge Legal
Cell

CORAM

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

Dated: 16th April, 2026

ORDER

Aggrieved of the action of the respondents in denying Reservist Pension, the applicant, by way of this OA filed under Section 14 of the Armed Forces Tribunal Act, 2007 prays for the following reliefs:

- (a) *To set aside the impugned order dated 20.10.2015 of the respondents.*
- (b) *To direct the respondents to condone the shortfall of 08 months and 15 days in the service of the applicant and consequently, to direct the respondents to grant him Pension.*
- (c) *Issue such other order/direction as may be deemed appropriate in the facts and circumstances of the case.*

2. The facts, in brief, are that the applicant was enrolled in the Indian Air Force in the trade of Photo Fitter on 17th January, 1995 and after serving for 12 years, 03 months and 16 days was discharged from service on 3rd May, 2007 at his own request. Applicant, though discharged at his own request before completion of his term of engagement, as averred, was transferred to Air Force Reserve for two years to fulfill his reserve liability. Except a copy of the Reservist Airmen Discharge Register depicting the term of reserve liability of the applicant, no other documents, including the certificate of discharge from regular Air Force Reserve, were provided to the applicant the same having been destroyed as per policy in vogue. Since no pension was paid, the applicant submitted a representation on 16th September, 2015 for condonation of shortfall 8 months and 14 days in service to make him eligible for grant of Reservist Pension. Applicant's representation was rejected on the ground that he was never transferred to Regular Air Force Reserve and was put only in 'Reserve Liability' without rendering any 'Reserve Service' thus not eligible for Reservist Pension or any other pension. Against this denial, the applicant has filed the present OA.

3. The learned counsel for the applicant submitted that the applicant, in addition to two years of reserve service, has rendered more than 12 years of color service which makes him eligible for grant of Reservist Pension. In support of his case, learned counsel has also placed reliance on the judgments in Vinod Roy John Vs. Union of India and Ors. [TA 18/2009]; (AFT, RB, Kochi), Ex Cpl Pritam Singh Vs. Union of India and Ors. [OA 541/2011] decided on 14th March, 2014 and Ex Cpl Dinesh Kumar Rana Vs. Union of India and Ors. [OA 224/2014] decided on 8th August, 2014 (AFT, PB, Delhi).

4. Learned counsel further submitted that in terms of MoD Letter No.4684/DIR (Pens)/2001 dated 14th August, 2001 and 7th November, 2001 even in the cases of persons who had taken discharge at their own request, deficiency in service can be condoned. Learned counsel further contended that even if an individual is not called back to serve, he is still entitled to Reservist Pension if he is in the Reserve list as is the case of the applicant. Further contention of learned counsel for the applicant is that for the purpose of counting total service for granting pension the

period of Reserve Liability can be counted as part of service, therefore, the applicant is entitled to the reliefs claimed.

5. Per contra, learned counsel for the respondents submitted that as per Regulation 121 of the Pension Regulations for the Air Force, 1961 (Part 1), 15 years of minimum qualifying regular service to earn pension and 15 years of combined color reserve service to earn Reservist Pension, as provided under Regulation 136(a), is required. Regulations 121 and 136(a) of the Pension Regulations for the Air Force, 1981 (Part 1) read as under:

“Minimum qualifying service for pension

121. Unless otherwise provided for, the minimum qualifying regular service for earning a service pension is 15 years.”

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“Reservist Pension

136 (a) A reservist who is not in receipt of a service pension may be granted, on completion of 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.”

It is further submitted that the airmen who have minimum five years, but less than 15 years of regular service, are eligible only for Service Gratuity and Death Cum Retirement Gratuity in terms of Regulations 127 and 128, which are reproduced hereunder:

“Minimum qualifying service for Gratuity

127. Unless otherwise provided for, the minimum qualifying regular service for earning a service gratuity is five years.”

“Scale of service gratuity

128(a) Service gratuity at the scale of two third of a month’s pay for each completed year of qualifying service may be granted to an individual with less than 15 years qualifying service, who is discharged for the following causes:

- (i) compulsory discharge with gratuity*
- (ii) services no longer required*
- (iii) otherwise than at his own request having reached the stage at which discharge may be enforced.*

The competent authority may, however, reduce the gratuity by an amount not exceeding one fourth of the admissible gratuity.

(b) No gratuity shall be admissible to an individual who is discharged at his own request.”

6. It is also submitted that since the applicant had only 12 years and 106 days of qualifying regular service, he was eligible and granted Service Gratuity and Death Cum Retirement Gratuity (Annexure R-2). It is further submitted that only the period actually served in the Regular Air Force is taken into account for grant of service pension. The period of reserve liability is not taken into account since he was not transferred/drafted into any kind of reserve service hence is not eligible for grant of service pension/reservist pension.

7. It was further submitted by learned counsel for the respondents that pursuant to the decision taken in the Air Force Commanders' Conference held between 21st to 23rd August, 1972, the Reserve Scheme, without abrogating the Reserve and Auxiliary Air Force Act, 1952, was suspended by the Chief of the Air Staff and has since been not revoked. Learned counsel, therefore, contended that there was no Air Force Reserve Scheme during applicant's reserve liability period and, therefore, applicant's transfer to Regular Air Force Reserve Service and thereafter entitlement to Reservist Pension does not arise. Submission of learned counsel for the respondents, therefore, is that demand for grant of Reservist Pension/service pension by treating applicant's reserve liability period as actual color service/reserve service, is against the statutory provisions and the applicant is thus not eligible for Reservist Pension or pension of any kind.

8. Learned counsel further submitted that the question of Reserve Liability and Reserve Service has been elaborately dealt with by the Regional Bench of AFT Kochi in the case *Ex. Cpl. K Sasidharan Vs. Union of India and Ors* (OA No. 8/2010 and in similar matters by AFT (RB), Chennai and Chandigarh. Hence, having served only for 12 years and 106 days of regular service

against 15 years as provided under Regulation 136 (b) of the Pension Regulations for the Air Force, 1961 (Part 1), reliefs claimed by the applicant cannot be granted and therefore, applicant is not eligible for any kind of pension. He pleaded for dismissal of Original Application.

9. We have heard learned counsel for the parties and have also perused the record.

10. For adjudication of the disputes raised in the OA the following questions need to be answered.

- i) Whether Reserve liability can be treated as Reserve Service and added to regular color service to determine grant of service pension/Reservist Pension?
- ii) Whether the shortfall in service after adding 2 years of Reserve Liability, as claimed by the applicant can be condoned to become entitled to receive any kind of pension,?
- iii) Finally, whether the applicant is eligible to Reservist Pension or any other pension?

10. As far as the first question is concerned there appears to be a clear distinction between the Reserve Service and Reserve Liability. As noted in the case of *Ex Sep Dayanand Sharma Vs. Union of India and Ors.* (OA 613/2017) decided on 16th January, 2026 Armed Forces Tribunal, Principal Bench, New Delhi 'Reserve Liability' means the period for which an airman, under the terms and conditions of his service, is liable to

serve in any Air Force Reserve as and when constituted, whereas 'Reserve Service' means the period of an airman, by a special order of the constituted authority is transferred to Regular Air Force Service for his service during his Reserve Liability. Regulation 145 of DSR Vol.1 clearly states that an enrolled personnel will normally be required to complete his prescribed color engagement before he is transferred to the pension establishment with Reserve Liability. This creates a reserve force; as per Regulation 202 of the DSR Vol.1, Chapter V the Reserve Force is composed of JCOs, NCOs and Sepoys of all arms and services (including Gorkhas) transferred to the reserve by virtue of their Reserve Liability. Once the need arises, by a general or special order the individuals from Reserve Force will be asked to render service in Regular Air Force, Army or Navy as the case may be which is 'Reserve Service' and would be counted and added to the color service. Similar regulations exist and are applicable to the Air Force and Navy as well.

11. The applicant, as is evident from the records and discharge certificate had Reserve Liability of two years from the date of his discharge, i.e., 3rd May, 2007; he was not transferred to any Reserve Service as the Reserve Scheme in the Air Force was suspended by the Air Force Commanders' Conference held

between 21st to 23rd August, 1972, details of which are contained in a letter of October, 1972, which is reproduced hereunder:

REF : 370231/207

Air Headquarters,
New Delhi-11

2 Oct 72

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 :-

- With immediate effect no airman is to be inducted into Regular Air Force Reserve.
- Airmen who are on the reserve list at present be called upon to indicate their option for continuance or absolvment from the Reserve.
- 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 (Ltr of Org/Adm & Res).

- This is for your information.
- Please acknowledge.

(M. BANSAL)
Group Captain
Director of Organisation
Air Officer i/c Administration

Copy to :
Air Force Record Office.
BPA.

12. A plain reading of this letter indicates that it was decided in this Conference that the 'Reserve Scheme' should be suspended and resultantly it was further decided that no airman will be transferred to the Regular Air Force Reserve on expiry of his regular engagement. The Reserve Service Scheme has since then not been invoked. However, the individuals being

discharged continue to have Reserve Liability for two years and are part of the Reserve Force.

13. The applicant joined service in 1995 and took PMR in 2007, i.e., much after the Reserve Scheme had been suspended in 1972 and has remained so thereafter hence he could not have been drafted into Reserve Service instead had a Reserve Liability. Hence in the light of the above fact the applicant was not drafted to 'Reserve Service' instead he was discharged with 'Reserve Liability' which is distinct from Reserve Service. Thus, the applicant's request to consider the Reserve Liability of two years as Reserve Service treating it as qualifying service for grant of pension, be it service pension or reservist pension, is not in consonance with the existing Policies or Regulations and, therefore, the relief claimed by the applicant cannot be granted. This distinction between Reserve Liability and Reserve Service is further established by this Tribunal's judgment in the case of Ex Sgt Chanan Mal Vs. Union of India and Ors. (RA 48/2018 with MA 1597/2018 & 1860/2018 in OA 1674/2016) decided on 18th March, 2019 and Ex Sgt Saurabh Kumar Singh Vs. Union of India and Ors. (OA 185/2019) decided on 6th October, 2022. In Ex Sgt Chanan Mal (supra) this Tribunal while dismissing the Review

Application observed *“there is a distinction between ‘reserve liability’ and ‘reservist service.’*” It further observed *“a person who is under a reservist liability can be called upon to provide ‘reservist service’, meaning thereby that only reservist service is rendered by him if he actually served the Air Force, the said period would be counted for the purpose of pension. Since, in the instant case, he was not called upon to render the actual reservist service and he remained only under a reserve liability, therefore, it cannot be assumed or deemed that he had completed 15 years of pensionable service. Therefore, he could be considered for reservist pension.”* This Tribunal further in the case of *Ex Sgt Saurabh Kumar Singh* (supra) held that *“As per Pension Regulations 136(a) of the Regulations for the Air Force, 1961, only the period actually served in the ‘Regular Air Force Reserve’ is taken into account for grant of Reservist Pension and not the period of ‘Reserve Liability’ as Reserve Liability is the condition of terms of engagement in which an airman is liable to be transferred to any Air Force Reserve, if and when constituted.”*

14. As far as the second issue is concerned, as per Regulation 114 of the Pension Regulations for the Air Force, 1961 (Part-1) a maximum period of six months, which

vide Government of India, Ministry of Defence Letter No.4684/Dir(Pen)/2001 dated 14th August, 2001/, has further been extended to 12 months, can be condoned by the Service Headquarters to make an individual eligible to earn pension. In this case since the color service is only 12 years 3 months and 16 days and Reserve Liability cannot be counted as color service, hence the period to be condoned is more than two years which cannot be done as per the order on the subject.

15. As for the third issue of granting Reservist Pension/ Special Pension/any other pension has been elaborately dealt with in the case of similarly placed personnel of the Navy by the Hon'ble Supreme Court in *T.S. Das Vs. Union of India and Others* (CA No. 2147 of 2011) dated 27th October, 2016. As far the Reservist Pension is concerned, the Hon'ble Apex Court in this judgment has concluded that transfer to Reserve is not a matter of right and in case the individual is not drafted into reserve, he cannot stake claim for the same. In the present case neither the Reserve Scheme was in existence in the Air Force nor there is any order drafting the applicant to Reserve Service hence there is no question of granting him Reservist Pension. There is also no case for Special Pension since as per para 144 of the Pension

Regulations for the Air Force, 1961 (Part-I), special pension can be granted in the following conditions:

“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 –

of reducing the strength of Establishment of the Air Force;

Or

of re-organisation, which results in disbandment of any units/formation.”

16. The Hon’ble Supreme Court in the case of *T.S. Das* (supra) in the case of Navy has stated the following:

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

17. On the same analogy since the applicant is an Air Force Officer and the Reservist Scheme was discontinued from 3rd October, 1972, hence in the case of Air Force the crucial date would be 3rd October, 1972 and since the applicant was enrolled into Air Force service in January 1995, much after the cessation of the Reserve Scheme, he is not entitled to special pension in terms of Para 144 of the Pension Regulations and lastly as his service is less than 15 years, service pension also cannot be granted to him.

18. The judgments relied upon by the applicant all pertain to Reservist Pension and the fact that Reservist Scheme stood

suspended before the enrolment of the applicant and there was no occasion/speaking order by which he was drafted to Reservist Service hence they are of no use to the present case. Moreover post the decision of the Hon'ble Supreme Court in *T.S. Das* (supra) in 2016 these judgments hold no relevance.

19. In view of the above, we answer question (iii) by stating that the OA is devoid of merit and is liable to be dismissed. The applicant is not entitled to any kind of pension. The OA is, therefore, dismissed. There shall be no order as to costs.

20. Pending Miscellaneous Application(s), if any, also stands disposed of.

Pronounced in open Court on this 16th day of April, 2026.

[RASIKA CHAUBE]
MEMBER (A)

/vks/

[JUSTICE NANDITA DUBEY]
MEMBER (J)