

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

OA 806/2016

Commander Harneet Singh Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Mohan Kumar, Advocate
For Respondents : Mr. Neeraj, Sr. CGSC
Mr. Rudra Paliwal, Advocate

CORAM:

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

Dated:23rd February, 2026

ORDER

The applicant through the medium of this OA filed under Section 14 of the Armed Forces Tribunal Act 2007 seeks the following reliefs:

- (a) *Quash and set aside the letter dated 21.06.2016 being arbitrary, illegal and perverse;*
- (b) *Quash and set aside the decision of the respondents granting premature retirement to the applicant in view of the request made for the cancellation of the same owing to the changed circumstances.*
- (c) *Give such other reliefs as may be deemed fit and proper for the ends of justice in law, equity and natural justice as deemed appropriate in the facts and circumstances of the case.*

2. The facts of the case, in brief, are that the applicant joined the Indian Navy as a Cadet on 15th July, 1991. After qualifying

Observer Course and deployment as Flight Navigator, within a short span of three years, the applicant passed other job related exams and became a qualified Gunner Specialist. In recognition of his dedication, commitment and exemplary professional competence, the applicant was awarded a Commendation by the Flag Officer Commanding-in-Chief on 15th August, 2004.

3. On 14th December, 2007, the applicant assumed command of INS Agray as its Commanding Officer. For alleged misconduct in the discharge of his duties, a Board of Inquiry report was forwarded to HQ Western Naval Command falsely implicating the applicant, as contended. However, irrespective of the said report, the applicant was promoted to the rank of Commander on 1st April, 2009 and continued serving onboard INS Agray in his substantive rank. On trial a Court Martial held on 23rd December, 2009 found the applicant guilty and awarded the punishment of 'Severe Reprimand' vide order dated 11th February, 2010. Aggrieved thereby, the applicant filed OA No. 30/2013 before the Kolkata Regional Bench of this Tribunal, which was allowed on 21st August, 2015. Immediately after the decision of the Tribunal, the applicant

on 24th August, 2015 under Navy Order 7/2012 submitted an application for premature retirement on the ground of lack of career prospects. Since the applicant did not get any response, seeking implementation of the Tribunal's directions in OA No. 30/2013 and all consequential benefits, he filed a Statutory Redressal of Grievance (RoG) under Section 23 of the Navy Act, 1957 which, after 23 days of its submission, was forwarded to the Assistant Chief of Integrated Defence Staff (Tech Int), HQ IDS, who in turn forwarded it to PDOP/Directorate of Personnel, IHQ MoD (Navy) for necessary action. Receiving no response, the applicant, in accordance with Regulation 239(3) of the Regulations for the Navy, Part II (Statutory), forwarded his statutory RoG directly to the Hon'ble Defence Minister on 9th April, 2016. However, upon the promulgation of the GoI's OROP pensionary benefits on 7th November, 2015, the applicant seeking cancellation of his PMR request submitted an application on 19th April, 2016. The IHQ MoD (Navy), vide their letter dated 25th May 2016, approved the applicant's request for premature retirement with effect from 31st July, 2016 (AN) on the ground of limited career prospects. A second request for

cancellation of his approved PMR submitted by the applicant on 20th June, 2016, was also rejected and he was directed to retire on 31st July, 2016. However, as contended, the applicant was not informed about any decision taken on his request for withdrawal of PMR, hence, the present OA.

4. The learned counsel for the applicant contended that the Board of Inquiry convened in February 2009 wrongly implicated the applicant for alleged misconduct as Commanding Officer and the subsequent Court Martial proceedings culminating in the punishment of “severe reprimand” were vitiated by procedural irregularities, misappreciation of evidence and violation of principles of natural justice. Further submission of learned counsel for the applicant is that since the Regional Bench Kolkatta of this Tribunal in OA No. 30 of 2013, after detailed examination, had set aside the findings and sentence of the Court Martial, the applicant stood fully exonerated and all consequential benefits in terms of the said order ought to have been restored to him. It is further contended that in spite thereof, the respondents failed to implement the order passed in OA No. 30/2013. The learned counsel further submitted that the applicant’s initial application

for premature retirement (PMR) was made due to the respondents' failure to implement the Tribunal's judgment and the consequent stagnation in career progression. However, when the One Rank One Pension (OROP) policy became operational on 7th November, 2015, the applicant reconsidered his earlier request in the changed circumstances and promptly sought cancellation of the PMR. This request, he submitted, ought to have been favourably considered since the applicant had not yet been formally relieved from service.

5. It is further urged that despite the pendency of statutory RoG, the respondents hastily approved the applicant's PMR on 25th May, 2016, without examining the implications of the Tribunal's order in OA No.30/2013 and without addressing the applicant's request for withdrawal of PMR. When the applicant again sought withdrawal of his PMR on 20th June, 2016, the respondents acting arbitrarily and in violation of the principles of fairness rejected it without assigning cogent reasons. The learned counsel also submitted that inaction to process the withdrawal of PMR and failure to implement the Tribunal's earlier directions in OA No.30/2013, has resulted in serious prejudice to the

applicant, depriving him of his legitimate benefits, seniority progression and pensionary entitlements. It is thus contended that the actions of the respondents are unsustainable in law, being vitiated by arbitrariness, non-application of mind and mala fides. The applicant, therefore, prays that the present OA be allowed with all consequential benefits including restoration of service rights, correction of his pensionary entitlements and any other relief deemed fit by this Tribunal.

6. The respondents, in their detailed counter affidavit, have justified the decision to grant the applicant premature retirement (PMR) and opposed the reliefs sought.

7. As a preliminary objection, it is submitted that the applicant sought withdrawal of his PMR only after he had already undergone the Pre-Release Course (PRC) and thus occupied a vacancy at the expense of another eligible officer awaiting nomination for the same course, thereby causing prejudice to the cadre management system. The respondents further submit that the Para 1(a) of Part II of the prescribed format for submitting applications for PMR contains a clear and express undertaking that the officer has taken all relevant factors into consideration

and will not withdraw the request subsequently. (Annexure R-1). Further, the PMR is governed by Navy Order 07/12, which provides that requests for premature voluntary retirement or permission to resign a commission are to be considered on merit, subject to the exigencies of service. It is emphasised that the prerogative to accept or reject such requests vests solely with the Government/Integrated Headquarters, Ministry of Defence (Navy). The respondents highlighted that in accordance with the Directorate General Resettlement (DGR) guidelines, a Pre Release Course (PRC) of 24 weeks is to be granted only to Permanent Commissioned officers who (i) are in the last year of service, (ii) if not superannuating, have already obtained approval of their PMR and (iii) are due for release within three months. However, in order to provide officers adequate time to prepare for post-retirement avenues, the IHQ has relaxed these norms to also permit (a) officers who have applied for PMR (even if approval is pending), and (b) officers superannuating/releasing later than three months after course completion. It is on the strength of this relaxation that the applicant was nominated for the Business

Management Course at Amity Institute of Education and Training, Noida, which he attended from 7th December, 2015

to 20th May, 2016. It is submitted that the PRC is intended exclusively to facilitate the resettlement of service personnel into civilian life after retirement and is a highly subsidised programme in which 60% of the course fee is borne by the Navy and the remaining 40% by the officer. Respondents' counsel further submitted that for the course attended by the applicant, out of the total cost of approximately ₹2,20,000/-, the Navy has borne ₹1,32,000/-. The respondents contended that the applicant was nominated for this course only because his PMR had been approved in principle. It is also contended that applicant's nomination to this course resulted in displacement of another eligible officer who would have otherwise been benefitted from the course. It is therefore prayed that the OA be dismissed.

8. After considering the pleadings, documents and submissions of both the parties, we are of the considered view that the pivotal questions in the present matter are (a) whether the applicant retained the right to withdraw his PMR application before its final

approval by the Competent Authority; (b) whether there was any administrative delay not attributable to him and (c) whether attending the PRC would make him totally ineligible for seeking withdrawal of PMR.

9. It is an admitted position that the applicant submitted his withdrawal request on 19th April, 2016 to DIPAC which in turn forwarded the same to IHq, IDS on 23rd May, 2016 after a delay of nearly a month but certainly before the approval of Competent Authority accorded on 25th May, 2016, i.e., at a time when the Competent Authority had not yet accorded final approval to his PMR and no release order had been issued. The law in this regard is well-settled that an employee retains the right to withdraw a request for voluntary retirement or resignation any time before its final acceptance, unless a binding contractual or statutory bar which prohibits such withdrawal. Navy Order 07/2012 stipulates to this effect. In the case before us, neither the Navy Act nor the relevant Regulations contain any absolute bar on withdrawal of a PMR application prior to final approval. In fact Para 16 of Navy Order 07/2012 goes a step further and states that "*An officer will not be permitted to withdraw, barring exceptional circumstances,*

his application for PR/resignation or to advance/postpone the date of his retirement/resignation once the same has been approved.” It thus implies that if exceptional circumstances are presented, then the PMR application can be withdrawn even if the same has been accepted by the Competent Authority. In the case of the applicant even though he had applied much before, his PMR was approved by the Competent Authority. There also exists an exceptional situation created by way of MoD letter dated 7th November, 2015 pertaining to OROP which debarred PMR cases from getting the benefit of OROP in case they sought the same prospectively post issuance of the letter on 7th November, 2015. This contention gets support from the order dated 17th March, 2017 of the AFT (PB) New Delhi in OA 238/2016 – *Cdr C.S. Joshi Vs. Union of India and Ors.* para 4 of which reads as under:

“4. In a nutshell, the case of the respondents is that the applicant had applied for premature release from the service, which was accepted by the Chief of Naval Staff and once the same was accepted, the transaction was complete. Any withdrawal has to be permitted only if some cogent and valid reasons are given by the incumbent. In the instant case, there was cogent and reasonable explanation seeking withdrawal of his application for premature release as the age of superannuation had been increased by the Government of India. Further, this was allegedly done before the acceptance of the same by Central Government & the actual date from which he had sought his release. Therefore, the withdrawal of the request for seeking premature retirement was perfectly in order. Therefore, the OA of the applicant is accordingly allowed in terms of prayer clause.”

The existence of an undertaking in the PMR format cannot override the statutory rights or principles governing voluntary retirement. We also find considerable merit in the applicant's grievance that administrative delay on the part of the respondents especially DIPAC materially prejudiced him. The factual sequence shows that the applicant's statutory Redressal of Grievance and his application for cancellation of PMR were delayed by his unit/office, DIPAC during internal processing. The forwarding of PMR itself consumed nearly a month's time and by the time the matter reached the competent authority, the approval process for PMR had already advanced. Had the applicant's request been forwarded promptly, as required by service norms, he would have been able to exercise his right of withdrawal effectively.

10. It is reiterated that the OROP policy, which materially altered the applicant's pensionary benefits, came into effect during this period. The applicant acted promptly upon coming to know of the policy and submitted his request for cancellation. The respondents' contention that the applicant should have known of the policy earlier is untenable; policy changes of such magnitude take time to circulate through the naval hierarchy and it is neither

reasonable nor realistic to expect an officer to act instantaneously upon its promulgation. With respect to the PRC, we note that the applicant completed a substantial portion of the course by the time he sought withdrawal. The PRC is indeed intended for officers proceeding on retirement and its subsidised nature is a legitimate concern of the respondents. However, the mere attendance in PRC cannot extinguish an officer's statutory right to withdraw PMR before its final approval, especially when the officer's request for cancellation was delayed by the respondents' own administrative processing.

11. In these circumstances, we hold that the applicant's withdrawal of PMR shall be treated as valid since it was made before final approval and the delay in its consideration was attributable to administrative lapses on the part of the respondents. However, in view of the fact that the applicant completed the PRC on the basis of a subsidised nomination intended for retiring officers, he, in all fairness, should refund the proportionate amount of the course fee borne by the Navy within a period of thirty days. Upon such repayment, the PMR order dated 25th May, 2016 shall stand cancelled and converted in an

order of superannuation with entitlement to all consequential benefits including the benefits flowing from OROP and other applicable schemes. The applicant shall also be entitled to arrears of pension from 25th May, 2016, the date on which the order of premature release was passed. The respondents are directed to calculate, sanction and issue necessary PPO to the applicant within three months from the date of receipt of a copy of this order. Default shall invite interest on the arrears @ 6% per annum till the date of payment.

12. The OA is accordingly allowed in the above terms with no order as to costs.

Pronounced in open Court on this 23rd day of February, 2026.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)

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