

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

12.

OA 1094/2026

Hav/DSCGD Ram Bahadur Thapa Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Devendra Kumar, Advocate
For Respondents : Mr. D.K. Sabat, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
07.04.2026

By way of filing the present OA, the applicant seeks grant of Second Service Pension for the service rendered by him in the Defence Security Corps and for the said purpose seeks condonation of short fall in service of 42 days.

2. The applicant was enrolled in the Indian Army on 14.10.1985 and was discharged from service on 01.11.2009 after serving the Indian Army for more than 24 years. For the service rendered in the Indian Army, he has been granted service pension. Thereafter, he was re-enrolled in the Defence Security Corps on 15.03.2010 and was discharged from service of the Corps on 31.01.2025 after completing 14 years, 10 months and 16 days of service. The applicant was not granted the 2nd service pension for the service rendered in the DCS as he was not having

15 years of qualifying service to receive the pension as per Regulation 266 of Army Pension Regulation 1961 (Part-I). Seeking condonation of short fall in grant of service pension, the applicant has filed this OA.

3. The issue as to whether the short fall in service of one year or a period less than one year for grant of 2nd service pension with regard to service rendered in the DSC can be condoned or not, has been subjected to litigation and the Full Bench of this Tribunal had considered the issue in the case of *Shama Kaur Vs. Union of India & Ors. (OA 1238/2016)* decided on 01.10.2019 and it was held that if the shortfall of service is less than one year the same can be condoned in the light of the provisions of the Pension Regulations.

4. Finally, the matter travelled to the Hon'ble Supreme Court in the case of *Union of India & Ors. v. Balakrishnan Mullikote* in Civil Appeal arising out of diary No.27246/2023 and various others SLPs filed by the Union of India before the Hon'ble Supreme Court. The two substantial questions of law that arose for consideration were formulated in para 4 of the judgment passed by the Hon'ble Supreme Court very recently on 24.03.2026 , the same reads as under:-

“4. The two substantial questions of law that arise for consideration in this batch of appeals are:

A. Whether the Union of India, through the Ministry of Defence, is bound to give effect to Paragraphs 9 and 18 of the Pension Regulations for the Army, 1961 (hereinafter referred to as 'Pension Regulations, 1961') and Pension Regulations for the Army, 2008 (hereinafter referred to as 'Pension Regulations, 2008') respectively, as well as Note 5 appended to the letter dated 30th October 1987, while determining the length of qualifying service of personnel serving in the Defence Security Corps (hereinafter referred to as 'DSC') and

B. Whether such personnel are entitled to seek condonation of deficiency in the qualifying period of service for the purpose of pension eligibility in accordance with Paragraph 125 of the Pension Regulations, 1961 and Paragraph 44 of the Pension Regulations, 2008."

5. Finally, the appeals filed by the Union of India were dismissed and the Hon'ble Supreme Court held that there is no bar for DSC personnel earning 2nd Service Pension and the shortfall of one year or less than one year can be condoned. A detailed analysis of the principles of law, rules and regulations applicable have been undertaken by the Hon'ble Supreme Court and in view of the above, the claim of the applicant in this OA is liable to be allowed. Accordingly, we dispose of this OA with the following directions:-

- (i) Respondents shall examine the claim of the applicant in the backdrop of the law laid down by the Hon'ble Supreme Court in the case of *Union of India & Ors. v. Balakrishnan Mullikote* (supra); and

- (ii) In case it is found that the applicant has rendered service for a period which falls short of one year for attaining the qualifying service of 15 years, the same would be condoned and the pensionary benefits as directed by the Hon'ble Supreme Court shall be granted to the applicant.
 - (iii) However, on such verification, if for any other reason or based on the service profile and details of the applicant, the respondents find that the applicant is not entitled to the said benefit, it shall be incumbent upon them to pass a detailed speaking order and communicate it to the applicant.
 - (iv) Either way, action as directed hereinabove, be taken within a period of six months from the date of receipt of a copy of this order.
6. With the aforesaid, the OA stands disposed of. No order as to costs.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[REAR ADMIRAL DHIREN VIG]
MEMBER (A)**

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