

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, MUMBAI**

**Original Application No. 66 of 2022**

**Wednesday, this the 24<sup>th</sup> day of August, 2022**

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

Hariom Singh Chauhan (15155324M)  
 Residing at 43 Med Regiment,  
 PIN – 925743, C/o 56 APO

.... **Applicant**

Ld. Counsel for the Applicant : **Mr. H.S. Verma**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi – 110001.
2. Chief of the Army Staff, IHQ of MoD (Army), Sena Bhavan, New Delhi – 110011.
3. GSO-1, Dte Gen of Arty (Arty-7), Gen Staff Branch, IHQ of MoD (Army), New Delhi – 110105.
4. Officer Incharge Records, Topkhana Abhilekh Artillery Records, PIN-908802, C/o 56 APO.
5. Commanding Officer, 43 Medium Regiment, PIN – 925743, C/o 56 APO.

... **Respondents**

Ld. Counsel for the Respondents : **Mr. A.J. Mishra**,  
 Govt Standing Counsel

**ORDER (Oral)**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-

(i) *That this application be admitted.*

*(ii) That the respondents be directed to approve premature discharge on extreme compassionate grounds at early date with retirement benefits.*

*(iii) To pass such other and further orders as may be deemed necessary in the interest of justice.”*

2. Brief facts of the case giving rise to this application are that applicant was enrolled in the Indian Army on 28.02.2002 as a clerk. The applicant while serving with 43 Medium Regiment applied for premature discharge from service on extreme compassionate grounds owing to genuine and serious family issues at home and his advance pension documents alongwith PMR application were sent to the Artillery records duly recommended by the Commanding Officer of the unit. However, due to low level and strength of Clerks in Regiment of Artillery to which trade applicant belongs, PMR of the applicant was kept waitlisted alongwith other similar cases in the organizational interest till the holding strength of Clerks GD trade and manning level of Regiment improved. Later, premature discharge of the applicant was not approved by IHQ of MoD (Army) vide letter dated 05.02.2021. Being aggrieved, the applicant has filed the present Original Application for grant of premature retirement.

3. Learned counsel for the applicant submitted that applicant was enrolled in the Indian Army on 28.02.2002 as a clerk. The applicant while serving with 43 Medium Regiment applied for premature discharge from service on extreme compassionate grounds owing to genuine and serious family issues at home and his advance pension documents were sent to the respondent No. 4 on 24.01.2020. The

parents (father 72 years and mother 70 years old), wife and son have been suffering from medical and health problems and are unable to manage day to day life by themselves, hence, presence of the applicant is very much necessary to help and save their lives. PMR application of the applicant was recommended by MG Artillery of HQ Southern Command but it was intimated that PMR application of the applicant may be considered after October 2020. Applicant's father also approached respondent No. 2 explaining his medical and family issues vide his letter dated 19.08.2020. Thereafter, respondents No. 3 asked for deficiency bearing certificate in respect of the applicant vide letter dated 05.11.2020.

4. Learned counsel for the applicant further submitted that applicant filed WP No. 12449/2021 before the Hon'ble High Court of Allahabad which was dismissed vide order dated 21.09.2021 directing the applicant to approach AFT Lucknow for redressal of his grievance. The applicant's wife also sent an application to President AWWA to look into her issues and problems and help her but nothing has been done. He also submitted that situation after imposing restriction in granting discharge from service due to Covid Pandemic has improved and process of new enrolment in the Army has begun, therefore, discharge request of the applicant be considered and premature discharge of the applicant be sanctioned so that applicant is discharged from service forthwith.

5. On the other hand, learned counsel for the respondents submitted that applicant was enrolled in the Army on 28.02.2002 and has completed 20 years & 03 months of service. The applicant has

submitted an application for premature discharge from service on compassionate grounds alongwith advance pension documents signed by Commanding Officer of 43 Medium Regiment. However, manning level of Regiment of Artillery dropped to low levels and strength of Clerks GD to which trade applicant belongs has also fallen much below the authorized strength, resulting in a huge deficiency of Clerk GD. Accordingly, case of the applicant was kept waitlisted alongwith other similar cases in the organizational interest till the holding strength of Clerks GD trade and manning level of Regiment improves. This fact was intimated to the applicant vide Artillery Records letter dated 20.12.2019. The case of the applicant was processed duly recommended by MG Artillery of HQ Southern Command to IHQ of MoD (Army) (Artillery) vide letter dated 31.03.2020. Since unit of the applicant had requested to consider his premature discharge after October 2020, an instruction from IHQ of MoD (Army) vide letter dated 21.05.2020 was issued asking a deficiency bearing certificate from the unit of the applicant, i.e. 43 Medium Regiment. Accordingly, unit was asked to submit deficiency bearing certificate directly to IHQ of MoD (Army), Artillery-7 under intimation to Artillery Records. Later, premature discharge of the applicant was not approved by IHQ of MoD (Army) vide letter dated 05.02.2021 and the same was informed to the unit of the applicant, i.e. 43 Medium Regiment vide Records letter dated 15.02.2021.

6. We have heard learned counsel for the parties and perused the records.

7. We have given our thoughtful consideration to the facts and rival contentions. The applicant has applied for premature discharge from service due to his domestic/family problems. The authorities could not consider his case in its proper perspective and rejected the same due to restrictions imposed by IHQ of MoD (Army) due to deficiency of Clerks GD in applicant's trade/organisation.

8. From perusal of impugned letter dated 05.02.2021 issued by IHQ of MoD (Army) (Artillery), it is found that out of six PMR applications, four PMR applications have been approved and two have not been approved which includes the application of the applicant. It is also seen from the same letter that two PMR belongs to personnel of Clerks GD category, out of which Hav (Clk SD) S Pappachen has been sanctioned PMR whereas applicant's request, who is also of the same trade (Clerk SD), has been denied. The applicant cannot be punished being from clerical category, if he has filed an application for PMR keeping in view his family problems and therefore, PMR of the applicant needs reconsideration by the approving authority.

9. We also take note of the fact that the respondents have cited deficiency of personnel in applicant's trade as a ground to deny PMR. We are, however, of the view that his early discharge will not prejudice the respondents in any manner. Considering all aspects of the matter, improved Covid Pandemic situation and recommencement of recruitment in the Indian Army, we feel that applicant's case needs a review and could be re-examined for grant of premature discharge on compassionate grounds.

10. Accordingly, Original Application is disposed off finally with direction to the respondents to reconsider the prayer of the applicant for premature discharge from service on extreme compassionate grounds, keeping in view the overall improved situation of restrictions due to Covid Pandemic and also recommencement of recruitment in the Indian Army, within a period of four months from the date of this order and communicate the decision to the applicant accordingly.

11. No order as to costs.

12. Pending Misc. Applications, if any, shall stand disposed off.

**(Vice Admiral Abhay Raghunath Karve)**  
**Member (A)**

**(Justice Umesh Chandra Srivastava)**  
**Member (J)**

Dated : 24 August, 2022  
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