

**Court No. 1**  
**Reserved Judgment**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**Original Application No 128 of 2018**

Wednesday, this the 06<sup>th</sup> day of February 2019

**Hon'ble Mr. Justice S.V.S. Rathore, Member (J)**

**Hon'ble Air Marshal BBP Sinha, Member (A)**

Ex Risaldar Harbans Singh (JC-245389P) Quarter No 769/1,  
Dogra Lines, Roorkee Cantt (Uttarakhand), Pin - 247667

.....Applicant

Ld. Counsel for the: **Shri Lalit Kumar and Dr. Ashish Ashthana,**  
Applicant **Advocates**

Verses

1. Union of India, Through Secretary Ministry of Defence, New Delhi.
2. Commandant-cum-Officer in Charge Records, Armd Corps Records, PIN – 900476, C/o 56 APO.
3. Station Commander, Station Headquarters, Roorkee Cantt (Uttarakhand), PIN – 247667.
4. Commanding Officer, The Deccan Horse, PIN: 912609, C/o 56 APO.
5. PCDA (Pensions), Draupadi Ghat, Allahabad (U.P.)

.....Respondents

Ld. Counsel for the : **Shri A.K. Sahu, Central Govt. Counsel**  
Respondents **Assisted by Maj Atul Gupta,**  
**OIC, Legal Cell**

**ORDER**

**“Per Air Marshal BBP Sinha, Member (A)”**

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

*“(i) To quash and set aside the impugned order dated 30<sup>th</sup> November 2017.*

*“(ii) To reinstate the applicant in service with all consequential benefits.*

*“(iii) To award the cost of this litigation to the applicant as against the respondents; and*

*“(iv) To grant any other relief or reliefs which the Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”*

2. The factual matrix of the case is that the applicant was enrolled in the Army on 08.04.1991. During course of time, he was promoted as Dafedar. While serving as Dafedar, he was admitted in Military Hospital for pain in his right arm and was placed in low medical category on 10.11.2008 for the disability ‘**Cerebrovasscular Accident (ischemic) left MCA Territory**’. On 08.05.2010, he was categorised as SHAPE 2 (Permanent). He maintained this medical category of SHAPE 2 (Permanent) till his discharge. He was given sheltered appointment and was promoted to the rank of Naib Risaldar in the year 2011 and during sheltered appointment he was again promoted as Risaldar in the year 2013 despite low medical category SHAPE-2 (Permanent). On 30.11.2017, he was discharged from

service before completion of 28 years of service as applicable to Risaldars on grounds of non availability of sheltered appointment. Being aggrieved, the applicant has preferred the present O.A.

3. Learned counsel for the applicant pleaded that the applicant was enrolled in the Army on 08.04.1991. While serving as Dafedar, he was downgraded to Low Medical Category SHAPE- 2 on 10.11.2008 for the disease '**Cerebrovasscular Accident (ischemic) left MCA Territory**' and he remained low medical category upto his retirement. As per prescribed rules of promotion, he was found eligible and he was promoted to the rank of Naib Risaldar in the year 2011 and further to the rank of Risaldar in the year 2013 despite his Low Medical Category of SHAPE 2 (Permanent). His last Review Medical Board was held on 06.04.2016 and Medical Board had again recommended his medical category as SHAPE 2 (Permanent) and his next date of review was fixed on 04.04.2018. He pleaded that since the JCOs are primarily required to perform the supervisory duties in their unit and therefore there is no significant restriction on their employment and posting due to Low Medical Category of SHAPE 2 (Permanent). As per Regulation 163 of Regulations for the Army, the applicant as a Risaldar is entitled for 28 years of service. He was discharged from service on 30.11.2017 locally without recommendation of Release Medical Board and before completion of 28 years of service as applicable to Risaldars which is a mandatory

condition precedent for passing the discharge order of a candidate under Rule 13 of The Army Rules 1954. Respondent No 4 has passed the local discharge order without getting opinion of the IMB or RMB which is illegal and ultra-vires of the statutory rules. He pleaded that while issuing discharge order, the respondents have not followed provisions of Regulation 163 of the Regulations for the Army 1987 which provides that retirement of Risaldar/Subedar is compulsory on completion of 28 years of pensionable service or 50 years of age, whichever is earlier. The applicant has wrongly been discharged from service before completion of terms of engagement of 28 years of service contrary to rules and regulations. He pleaded that as per Rule 13 of the Army Rules 1954, IMB/RMB is a mandatory condition precedent for passing of discharge order on medical grounds and the respondents have violated mandatory condition. He pleaded that due to premature discharge, the payment of pension and other retiral benefits have been delayed and the applicant was ordered to vacate the government accommodation. He was denied his right of promotion to the rank of Risaldar Major and pension of 28 years of service. Learned counsel for the applicant pleaded that various Armed Forces Tribunals have granted relief in the same matter and pleaded that the O.A. be allowed in favour of the applicant.

**4. Per contra**, learned counsel for the respondents refuting the submissions of the learned counsel for the applicant vehemently

pleaded that the applicant was enrolled in the Army on 08.04.1991. He was placed in low medical category on 10.11.2008 and remained in Low Medical Category till his retirement for the disability **'Cerebrovasscular Accident (ischemic) left MCA Territory'**. The applicant had already completed minimum pensionable service of 15 years and he was discharged from service on 31.11.2017 after completion of 26 years, 07 months and 23 days of service under Army rule 13 (3) Item I (ii) (a) of Army Rule 1954 being Low Medical Category as no sheltered appointment was available in the unit. On 28.03.2016 his last Medical Board was held and medical board recommended him to continue in Low Medical Category till 28.03.2018. The applicant was willing to continue in service but it was not recommended by Commandant as sheltered appointment was not available in the Regiment. A show cause notice dated 02.02.2017 was issued to the applicant to show cause as to why he should not be discharged from service in terms of Army Headquarters letter dated 30.09.2010 applicable to personnel who are in SHAPE 2/3. In reply to Show Cause Notice he expressed his willingness to continue his service. The competent authority informed the applicant vide their letter dated 21.04.2017 that regiment is not in a position to provide sheltered appointment or further retention in service due to operational requirement of the unit being a fighting arms and prevailing circumstances in the unit. The applicant was locally

discharged vide order dated 30.11.2017 which he again refused to accept. His discharge was approved by Officer In charge Records of the rank of Major General in terms of Army Headquarters letter dated 30.09.2010.

5. Learned counsel for the respondents pleaded that “under the provisions contained in the amended Army Rule 13, if no sheltered appointment is available in the unit or the individual is surplus to the organization, he may be discharged from service”. In the instant case, the discharge of the applicant was recommended by the Commandant as no suitable sheltered appointment commensurate to his disability was available, hence discharge of the applicant is in order.

6. Learned counsel for the respondents pleaded that it is compulsory for every Low Medical Category personnel to undergo Release Medical Board before release/discharge from service. The applicant was approached verbally as well as vide letters dated 12 Sep 2017 and 27 Nov 2017 to complete his compulsory discharge documents as well as to undergo Release Medical Board but he refused to submit his pension documents and to undergo Release Medical Board. Para 6 of Army Headquarters letter dated 30.09.2010 states that “all endeavour should be made to allow Low Medical Personnel to complete their minimum pensionable service in their present rank”. The Minimum period of qualifying service for earning

pension is 15 years. In the instant case, the applicant was placed in Low Medical Category in the year 2008, at that time he was holding the rank of Dafedar. He was given sheltered appointment upto his discharge and was given promotion from time to time, hence his discharge due to non availability of sheltered appointment is in order.

7. Learned counsel for the respondents further pleaded that under the provisions of para 2 of Army Order 46/1980, The employment of permanent Low Medical category personnel, at all time is subject to the availability of suitable alternative appointment commensurate with their medical category and also to the proviso that this can be justified in the public interest and that their retention will not exceed the sanctioned strength of the regiment/corps. When such an appointment is not available or when their retention is either not considered necessary in the interest of the service or it exceeds the sanctioned strength of the regiment/corps, they will be discharged irrespective of the service put in by them. In the instant case, there was no sheltered appointment available in the Regiment/Corps. Keeping in view of war efficiency of the Regiment, non availability of sheltered appointment commensurate with applicant's disability, he was discharged from service. In spite of repeated order/directions, the applicant neither submitted mandatory documents to process pensionary benefits nor he reported for Release Medical Board, hence he was locally discharged from service as per stipulated rules.

He pleaded that the applicant was discharged from service as per stipulated rules and no illegality was done hence this Original Application deserves to be dismissed being infructuous and devoid of merit.

8. Heard learned counsel for the parties and perused the pleadings, the relevant records leading to the decision of discharge from service. The following issues emerge for consideration after a comprehensive study of the rules, regulations and case laws:-

The existing provisions in Army permits a Low Medical Category soldier in SHAPE 2 (permanent) to be promoted right up to the rank of Subedar Major, however, parallelly it also has a provision to discharge soldiers in SHAPE 2 (permanent) on grounds of not having sheltered appointments. Having parallel provisions of promotion as well as discharge for same medical category i.e. SHAPE 2 increases the scope of arbitrariness and subjectivity. Hence we have framed the following three questions for ourselves:-

(a) The first question is 'Is the present system of denying sheltered appointment to a SHAPE 2 (permanent) JCO before expiry of his terms of engagement for that rank, fair and just?'

(b) The next question which needs to be answered is 'Has the decision to terminate the service of the applicant as a JCO in Low Medical Category SHAPE 2 (permanent) been taken



with due application of mind or in an arbitrary and mechanical manner?’

(c) The last question we have framed is ‘was the holding of RMB a mandatory requirement before the discharge of the applicant and does the non conduct of the RMB vitiate the discharge order?’

9. After hearing the counsels and perusing the records, we find that the applicant was initially placed in a Low Medical Category on 10.11.2008 and thereafter he remained in Low Medical Category SHAPE 2 (permanent) until his discharge from service.

10. After Hon’ble Apex Court judgment in the case of ***Union of India & Others Vs Rajpal Singh, {(2009) 1 SCC 216}*** the provisions of Army Rule 13- 1 (ii) (a) were modified and the new provision is reproduced as under:-

<b>Grounds of discharge</b>	<b>Competent Authority to authorise discharge</b>	<b>Manner of discharge</b>
1	2	3
“1.(ii)(a) Having been found to be in permanent low medical category SHAPE 2/3 by a medical board and when:- (i) No sheltered appointment is available in the unit, or (ii) Is surplus to the organization.	Commanding Officer	The individual will be discharged from service on the recommendation of Release Medical Board.”

11. As per new provisions a person in Low Medical Category in SHAPE 2 or SHAPE 3 can be discharged on the recommendation of Release Medical Board provided if any of the two conditions are met i.e. if no sheltered appointment is available in unit or if the individual is surplus to the organization.

12. We find that as per AO 46/80 disposal of permanent Low Medical Category personnel is very clearly defined. Sub Para (a) and (b) of para 2 of AO 46/80 reads as under:-

*(a) The employment of permanent low medical category personnel, at all times, is subject to the availability of suitable alternative appointments commensurate with their medical category and also to the proviso that this can be justified in the public interest, and that their retention will not exceed the sanctioned strength of the regiment/corps. When such an appointment is not available or when their retention is either not considered necessary in the interest of the service or it exceeds the sanctioned strength of the regiment/corps, they will be discharged irrespective of the service put in by them.*

*(b) Ordinarily, permanent low medical category personnel will be retained in service till completion of 15 years service in the case of JCOs and 10 years in the case of OR (including NCOs). However,*

*such personnel may continue to be retained in service beyond the above period until they become due for discharge in the normal manner subject to their willingness and the fulfillment of the stipulation laid in Sub Para (a) above.”*

13. Having decided to retain a Low Medical Category personal in sheltered appointment, the AO 46/80 elaborately specifies their further retention in service and discharge as under:-

3. *“(a) NCOs will be discharged on completion of the retiring service limits appropriate to ranks as opposed to the extended limits laid down in AO 13/77. However, their retention beyond the contractual period of engagement will be regulated under the provisions of Paras 144 to 147 of Regulations for the Army 1962.*  
*(b) JCOs will be discharged on completion of the normal retiring service limits as opposed to the extended limits laid down in AO 13/77.*

14. We also find that the army permits promotion of Low Medical Category SHAPE 2 (permanent) JCOs up to the rank of Subedar Major, thus we have a situation wherein a person in Low Medical Category SHAPE 2 can either be promoted or can also be discharged on the grounds of non availability of sheltered appointment. We are aware that the army is a fighting force and physical fitness is of paramount importance for high operational efficiency of the Army. It is precisely for this reason that soldiers in Armed Forces are not protected by “THE PERSONS WITH DISABILITIES ACT 1995”. We find that SHAPE 2 (permanent) medical category is a category which has minimum limitations and a soldier can by and large discharge his

duty reasonably well in this medical category as compared to other categories which are lower than SHAPE 2 (permanent). We are also aware that minor injuries or non threatening diseases of a soldier can also result into a permanent Low Medical Category of SHAPE 2 for him. We understand that if a soldier is always in fear of loosing his job, he cannot put in his best hence to bring a balance between the interests of the organization and the motivational requirements of a soldier AO 03/2001 and AO 46/80 have been issued. However if the Army as a organization has decided not only to keep permanent Low Medical Category personnel of SHAPE 2 (permanent) in service but also to promote them up to the rank of Subdear Major, then the question arises as to what should be the checks and balances against arbitrariness and subjectivity against the misuse of another parallel provision in Army wherein soldier in permanent Low Medical Category of SHAPE 2 (permanent) can be discharged on the ground of non availability of sheltered appointment. In this context we once again want to draw attention to para 3 (b) of AO 46/80 i.e.:-

(a) .....

*(b) JCOs will be discharged on completion of the normal retiring service limits as opposed to the extended limits laid down in AO 13/77.*

Thus it is clear that AO 46/80 prima facie envisages a JCO in Low Medical Category to be discharged on completion of his normal retiring service limits. We are aware that the promotion in the rank of

JCO is based on availability of vacancies vis a vis minimum laid down performance threshold and seniority as decided by DPC. Hence in this kind of scenario the possibility of easing out a SHAPE 2 (permanent) JCO on the ground of non availability of sheltered appointment for giving promotion to someone else due to subjectivity and arbitrariness cannot be totally ruled out. This is particularly so because there is no clear laid down criteria as to how many Low Medical Category personnel can be retained by a Regiment except that it should not exceed total authorized strength. We find that in some units the Commanding Officers are keeping up to 90 personnel in Low Medical Category as a sheltered appointment while in some other units this number is significantly less. In case of applicant this number was at 45. Right to work is linked to right to livelihood as per Article 21 of the Constitution of India, therefore when parallel provisions are existing in the army to give promotion as well as discharge of a soldier in Low Medical Category in SHAPE 2 (permanent) then the principles of fair play and natural justice demands that there should be very valid reason for discharge and that reasonable checks and balance must be in place before a JCO who is in SHAPE 2 and who has not completed his terms of engagement in that rank is discharged due to non availability of sheltered appointment.

15. Annual Confidential Reports are written for all personnel including Low Medical Category personnel. If a Low Medical Category person in SHAPE 2 (permanent) is not upto mark as a JCO and is not discharging his duties properly, the same should find reflection through his Annual Report in the DPC. However if a soldier is promoted as a JCO despite being in SHAPE 2 (permanent) on the basis of his good Annual Reports, then prudence demands that he should be allowed to complete his basic terms of engagement in that rank. In such a situation if the JCO has to be discharged on grounds of non availability of sheltered appointment, he should be discharged only due to very unavoidable and specific circumstances like, 'surplus to organization', or unit deployed or likely to be deployed in HAA/CI Ops area etc so that the relationship between employment restriction in SHAPE 2 (Permanent) and the nature of duty become clear. Hence we feel that if Army as a fighting force feels that JCOs in SHAPE 2(Permanent) should not be promoted in general and specifically they should not be promoted to Subedar Major rank, then it should say so unambiguously and clearly. But having cleared them as per present policies for promotion upto Subedar Major and thereafter having a parallel provision to discharge them due to non availability of sheltered appointment is an avoidable situation, which has full potential for arbitrariness/subjectivity particularly so because there are no clear guidelines to Commanding Officers in this matter. It is

therefore desirable for Army authorities to fine tune their rules and to find ways and means of reducing the scope of arbitrariness and subjectivity in grant of sheltered appointments.

16. Coming to second question 'Has the decision to terminate the service of applicant as a JCO in Low Medical Category SHAPE 2 (Permanent) been taken with due application of mind or it is a case of mechanical decision making?'

17. Considering all the issues involved in this particular case we feel that the only restriction relevant to applicant is the restriction on his HAA deployment. Since it is not the claim of respondents that the unit of the applicant in the present or in immediate future was likely to deploy in an High Altitude Area or CI Ops Area or that he was surplus to organization, hence in these circumstances denial of sheltered appointment merely on the ground that he is not in SHAPE-I and cannot lead in war like situations amounts to totally contradicting the stated organizational policy of giving promotion to SHAPE-2 (Permanent) soldiers in Army upto Subedar Major rank. Thus such a decision is prima facie hit by arbitrariness and subjectivity particularly so when the applicant is alleging that he has been unfairly eased out to create a vacancy for somebody else to get promotion. If a Low Medical Category JCO is not performing well then his Commanding Officer can always reflect the same in his Annual Confidential Report to block his promotion. However, if a low medical category person in

SHAPE 2 is promoted to the rank of JCO then in normal circumstances he should be allowed to complete his terms of engagement for his given rank. It has to be understood that unlike lower ranks i.e. Havildars and below the physical activity level expected from a JCO is always on the lower side. Therefore while the primary focus for the lower ranks getting sheltered appointment is to help them become eligible for pension, the focus for JCOs have to be more towards continuity in their rank till the authorized period of engagement. In any case the shelf life of a JCO's is very less and generally they don't have more than 2-3 years in each JCO rank. In this context we would like to quote the judgment of Armed Forces Tribunal, Regional, Jabalpur, passed in ***O.A NO 07 (J) of 2017, Naib Subedar Sabu Ram Beniwal*** wherein the Regional Bench has held as under:

“24. We are of the considered opinion that the decision to terminate the service of a JCO / OR without completion of statutory tenure has to be based on the principle of balance and sound reasoning and the procedure laid down has to be scrupulously followed to enable fairness to the affected person. No doubt in the Army physical fitness is of paramount importance for high operational efficiency but the aspect of morale & motivation is equally critical. If soldiers are witness to such arbitrary termination of service of their colleagues in the unit, their morale & motivation is surely going to be detrimentally affected. It can usher in unwanted practices. This too can affect operational efficiency. Loss of a job entails loss of livelihood especially in case of GD soldiers like the applicant who is sent out with hardly any skill sets to seek alternate employment, at a time when their responsibilities are peaking and pension remains their only source of sustenance. Should a Junior Commissioned



Officer who has spent a lifetime in the service of the Nation be run roughshod over his job, at the twilight of his career? It will only add to the existing stress in the society. A truncated period of service means a truncated pension which may not be adequate to make both ends meet for the premature pensioner. We would conclude by giving out a summary of the observations of Hon'ble Supreme Court in **AK Kraipak & Ors vs Uoi & Ors**. 1969 (2) SCC 262 :-

“Under our Constitution the rule of law pervades over the entire field of administration and every organ of the State is regulated by the rule of law. In a welfare State it is inevitable that the jurisdiction of the administrative bodies is increasing at a rapid rate. The concept of rule of law would lose its vitality if the instrumentalities of the State are not charged with the duty of discharging their functions in a fair and just manner.”

18. Sub-rule 2A of Rule 13 of the Army Order empowers to provide specific conditions to regulate function of Commanding Officer for exercising power under Rule 13.

Power conferred by sub-rule 2A of Rule 13 of the Army Order is coupled with duty. It is for the Government as well as Chief of the Army Staff to ensure that no discontentment originates or persists in the army because of arbitrary exercise of power, accordingly authorized to provide specified conditions to secure fundamental rights under Part III of the Constitution of India.

19. Supreme Court in a case of **Andhra Pradesh S.R.T.C. vs. State Transport Appellate Tribunal & Ors.**, (1998) 7 SCC 353, while interpreting power conferred by statute coupled with duty held that the statutory power conferred to statutory authority should be exercised and such authority must not shirk to promote alien to the

letter and spirit of the legislation that gives it power to act and must not act arbitrarily and capriciously.

20. This principle has been reiterated in ***Comptroller and Auditor General of India, Gian Prakash, New Delhi and Anr. Vs. K.S. Jagannathan & Anr***, AIR 1987 SC 537, ***Dai-Ichi Karkaria Ltd. Vs. Union of India & ors.***, (2000) 4 SCC 57, ***Consumer Action Group & Anr. Vs. State of T.N. & Ors.*** (2000) 7 SCC 425 & ***Praveen Singh vs. State of Punjab & Ors.***, (2000) 8 SCC 633.

21. In the case of, ***Kameshwar Prasad and others, vs. State of Bihar*** reported in AIR 1962 Supreme Court 1166, the Hon'ble Supreme Court had considered the rights conferred by Article 33 read with para 3 of the Constitution for the Govt servants with regard to extent of exclusion of prospects of the fundamental rights under para 3. The relevant portion is reproduced as under :-

*“(a) In our opinion, this argument even if otherwise possible, has to be repelled in view of the terms of Art 33. That article selects two of the services under the state members of the armed forces and forces charged with the maintenance of public order and saves the rules prescribing the conditions of service in regard to them-from invalidity on the ground of violation of any of the fundamental rights guaranteed by Part III and also defines the purpose for which such abrogation or restriction might take place, this being limited to ensure the proper discharge of duties and the maintenance of discipline among them. The Article having thus selected the services members of which might be deprived of the benefit of the*

*fundamental rights guaranteed to other persons and citizens and also having prescribed the limits within which such restrictions or abrogation might take place, we consider that other classes of servants of government in common with other persons and other citizens of the country cannot be excluded from the protection of the rights guaranteed by Part III by reason merely of their being govt servants and the nature and incidents of the duties which they have to discharge in that capacity might necessarily involve restrictions of certain freedoms as we have pointed out in relation to Art. 19 (1) (e) & (g)*”.

22. Coming to Third question – ‘Was holding of RMB a mandatory requirement before the discharge of the applicant and does the non conduct of RMB vitiate the discharge order?’ It is understood that every soldier in medical category SHAPE-1 is required to go through Annual Medical Examination (AME) every year while soldiers in lower Medical Category i.e. SHAPE 2 and lower are required to undergo regular medical examination by a Medical Board, once every two years. Through these annual/ Biannual Medical Boards, the Army authorities are very very clear about the medical condition and the medical category of a soldier. However contrary to these Annual/Biannual Review Medical Boards, a Release Medical Board is done when a soldier is proceedings on discharge due to superannuation, completion of terms of engagement or when he has to be discharged as per the policy on retention of Low Medical Category personnel. Thus based on the policy of retention of Low

Medical Category personnel as per AO 46/80, if the Commanding Officer decides that the Low Medical Category person in SHAPE 2/3 (Permanent) has to be discharged, then the soldier will be required to undergo Release Medical Board which will look into the previous Medical Boards and reassess his medical condition specifically on the issue of percentage of disability and whether the disease/disability is attributable to or aggravated by military service. Additionally RMB proceedings are also required by audit for release of commutation amount because commutation amount is linked to life expectancy. However if a soldier so identified for release, refuses to undergo Release Medical Board despite clear orders and direction to this effect, then in our opinion such a person cannot hide under the fact that because his RMB has not been held, therefore, he should not have been discharged and if discharged the same is an illegal discharge. In circumstances when there is clear evidence that a soldier is himself responsible for non conduct of his RMB, his discharge will be considered as legal. In this particular case we find that the applicant had refused to undergo Release Medical Board despite clear instructions verbally and in writing therefore though not very relevant in this case, however we do not hold the discharge of the applicant illegal on the ground that his RMB was not conducted

before discharge. In this case we hold the applicant is responsible for non conduct of RMB.

23. Notwithstanding the issue of non conduct of RMB, we are of the considered opinion that the denial of sheltered appointment to the applicant is hit by Article 21 of the Constitution of India because his continuity in the rank has been denied due to an arbitrary exercise of power. The impugned order suffers from substantial arbitrariness and is not sustainable being not in consonance with the procedure prescribed by law.

24. As a result of discussions made hereinabove, the O.A. deserves to be partly allowed; hence **partly allowed**. Impugned order of discharge dated 30.11.2017 passed by the respondents is quashed. The applicant shall be re-instated in service notionally in his last rank held till he completes his terms of engagement in that rank i.e. 28 years of total service. He shall be entitled to 50% of salary for the notional period of service. His other retiral benefits are accordingly required to be worked out by the respondents. No other relief is admissible to the applicant. The respondents are also required to conduct a fresh RMB and complete all the formalities which are required for release of pension and other related benefits for the applicant. This order is to be implemented within four months

from the date of presentation of a certified copy of this order, default will result in payment of interest @9%.

No order as to costs.

**(Air Marshal BBP Sinha)**  
**Member (A)**

**(Justice S.V.S. Rathore)**  
**Member (J)**

Dated: February, 2019  
ukt/-