

**RESERVED**  
**Court No. 1**

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

**Original Application No. 871 of 2023**

**Wednesday, this the 21<sup>st</sup> day of February, 2024**

**Hon'ble Mr. Justice Anil Kumar, Member (J)**

**Hon'ble Vice Admiral Atul Kumar Jain, Member (A)**

Hav (Dvr MT) Yamanappa Ranavvagol (15422012P)

S/o Yamanappa

R/o presently posted at Military Hospital, Belgaum,

Belgaum Cantt, Belgavi, Karnataka, Pin – 900499

**.... Applicant**

Ld. Counsel for the Applicant: **Shri Manoj Kumar Awasthi**, Advocate

**Shri Anshuman Srivastava**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, DHQ PO, New Delhi-110011.
2. Chief of the Army Staff, South Block, New Delhi – 110011.
3. Senior Record Officer, AMC Records, Lucknow, C/o 56 APO, PIN-900450.
4. The Commandant, Military Hospital Belgaum, Belgaum Cantt, Belgavi, Karnataka, PIN – 900499.

**... Respondents**

Ld. Counsel for the Respondents : **Shri Bipin Kumar Singh**,

Central Govt. Standing Counsel

**ORDER**

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:-

*“a. To issue pass an order to set aside/quash the impugned letter dated 14.07.2021.*

*b. To pass the directions to consider and grant discharge from service to the applicant.*

*c. To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.”*

2. Brief facts of the case giving rise to this application are that applicant was enrolled in the Indian Army (AMC) on 29.12.2004. The applicant while posted with Military Hospital, Belgaum applied for premature retirement from service on compassionate grounds on 06.04.2021. His application was recommended by the higher officers in chain but the same was not agreed to by the competent authority and vide AMC Records letter dated 14.07.2021, applicant was informed that his premature retirement was not considered by the competent authority due to restrictions imposed by the Govt. and deficiency in his trade. Thereafter, applicant submitted another application dated 31.05.2023 for premature retirement from service on compassionate ground but no decision is taken by the respondents so far on his premature retirement application. Being aggrieved, the applicant has filed the present Original Application for grant of premature discharge from service.

3. Learned counsel for the applicant submitted that applicant was enrolled in the Indian Army (AMC) on 29.12.2004. The applicant has a family comprising his old parents, wife, 2 children, an elder brother and another brother's family, and all the family members are suffering from various medical ailments. Hence, the applicant is facing the challenges and perils of his domestic and personal life while performing his duties in the Army. The wife of the applicant is suffering from the disease, ANTI HCV+, his son and daughter aged 13 and 10 years respectively are

suffering from BRONCHIAL ASTHMA and are under treatment. The father of the applicant is old and had recently undergone a surgery of his LOWER BACKACHE and is presently bed ridden due to various other diseases, like BP and SUGAR. The elder brother of the applicant had undergone OPEN HEART SURGERY and still suffering from other health issues. Applicant's second brother had committed suicide on 27.02.2021 due to which his family is dependent on the applicant to look after being a joint family.

4. Learned counsel for the applicant further submitted that due to aforesaid reasons of health issues of family members and to look after well being of a combined joint family, applicant is unable to perform his military duties properly and effectively and therefore, applicant while posted with Military Hospital, Belgaum applied for premature discharge from service on compassionate grounds on 06.04.2021 and his application was recommended by the higher officers in chain but the same was not considered by the competent authority and rejected vide AMC Records letter dated 14.07.2021 stating the reasons that there is deficiency of personnel in their respective trades and also restrictions imposed by the higher headquarters on grant of premature retirement till 31.03.2023. Thereafter, applicant submitted another application dated 31.05.2023 for premature discharge from service on compassionate grounds but no decision is taken by the respondents on his premature retirement application and it is still pending with the respondents.

5. Learned counsel for the applicant also submitted that the applicant has completed more than 18 years of service with utmost dedication and

complete satisfaction of his superiors but he is having genuine family problems due to ill health of his family members and therefore, no bar should be applicable for premature retirement in the present circumstances and he should be prematurely discharged from service granting pensionary benefits. He placed reliance on the judgment of this Tribunal in OA No. 515 of 2021, **Hav/STA Mukesh Kumar vs. Union of India and Ors**, decided on 03.12.2021, OA No. 578 of 2022, **Hav Virender Singh vs. Union of India and Others**, decided on 02.12.2022, AFT (RB), Kolkata in T.A. No. 29 of 2012, **Havildar Ashok Kumar Joshi vs. Union of India and Ors**, decided on 01.05.2013 and the Hon'ble Apex Court judgment in **Sanjay Jain vs. Union of India**, Civil Appeal No. 7822 of 2011 and the Hon'ble High Court of Delhi in **K.S. Bhimwal Mohs (Lt. Col.) vs. Union of India & Anr.**, 79 (1999) DLT 297 dated 22.03.1999 and **Major Rahul Shukla vs. Union of India & Ors** (1995) 34 DRJ 399 (DB) and pleaded that applicant's case is squarely covered with aforesaid judgments and accordingly, keeping in view his personal difficulties for the pressing and challenging circumstances being faced by him in performing his military duties, ill health and medical problems of wife and children and other family members and all other difficulties of routine activities, it has become very difficult for him to continue the administrative and professional work with justifiable strength and vigour and therefore, applicant's premature discharge from service be sanctioned forthwith.

6. On the other hand, learned counsel for the respondents submitted that the applicant was enrolled in the Army (AMC) on 29.12.2004 and

presently posted with Military Hospital Belgaum since 31.03.2022. He was promoted to the rank of Naik on 01.01.2019 and Havildar on 10.06.2020. The applicant's present medical category is SHAPE-1 and he will be completing his normal service limit on 31.12.2028 in his present rank. The applicant submitted an application dated 06.04.2021 for premature retirement from service on compassionate ground citing health issues of his family members, and to look after/provide assistance & support to his aged parents and other family members. His application was processed and was examined in detail by AMC Records but the competent authority has not agreed to sanction premature retirement as per the merit of the case based on deficiency of his trade in the Corps and restriction imposed by IHQ of MoD (Army) on premature retirement till 31.03.2023 due to adverse impact of COVID-19 pandemic on recruitment in Indian Army. The ceiling of 0.5% for grant of premature retirement to JCO/ORs has been further extended by the competent authority till 30.06.2024 vide IHQ of MoD (Army) letter dated 06.04.2023.

7. Learned counsel for the respondents further submitted that as per para 164 (a) of Regulations for the Army, 1987 and Govt. of India, Ministry of Defence letter dated 03.09.1998, retirement age of Havildar is 24 years service with colours extendable by 2 years by screening or 49 years of age, whichever is earlier. Besides this, AMC is providing medical treatment to all dependents of serving personnel and many multispecialty service hospitals are located across the country to provide required treatment and to ensure good health of serving soldiers and their dependents. The applicant can utilize the medical facilities available at

service hospitals at his duty station as well as at nearest military hospital of his native place. The applicant's trade is 'Driver', hence deficiency of a single driver will result in compromise with the life and limb of a patient and it may affect optimal functioning of a hospital. The applicant had wilfully accepted promotion to the rank of Havildar in Jun 2020, hence his revised term of engagement/service is 24 years or 49 years of age, whichever is earlier. Besides this, there is restriction in granting premature retirement to JCOs/OR till 30.06.2024 due to COVID-19 pandemic and non recruitment in the Army and therefore, premature discharge may affect the operational commitments and preparedness of the Army.

8. Learned counsel for the respondents further submitted that premature retirement from service at own request is being dealt with as per guidelines issued by IHQ of MoD (Army) from time to time and only genuine cases are recommended after verifying the merit of the case and Corps manpower state. He also submitted that applicant signed a contract for 20 years of colour service and 03 years of reserve liabilities as per terms and engagement contained in the Enrolment Form signed by him at the time of enrolment in the Army and his present term of service/engagement in the rank of Havildar is upto 31.12.2028. The respondents' refusal for grant of premature retirement from service is wholly just, proper and in accordance with law and there is no illegality in the said order. Hence, keeping in view the deficiency in Corps manpower and limitations imposed by the competent authority on premature retirement, it will not be feasible to consider premature retirement of the

applicant at this juncture. He pleaded for dismissal of O.A. being devoid of merit and lacking substance.

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

10. We have given our thoughtful consideration to the facts and rival contentions. The applicant has submitted two applications on 06.04.2021 and 31.05.2023 for premature discharge from service on medical grounds/ill health of family members (wife, children, parents, brother & another brother's widow being joint family) and other domestic problems as the applicant is facing personal difficulties in performing his assigned task/military duties in pressing and challenging circumstances of the Army. The authorities could not consider his case in its proper perspective and rejected the same on the grounds of restrictions imposed by IHQ of MoD (Army) due to deficiency in applicant's trade and non recruitment due to COVID-19 pandemic, and also to serve as per contract for 20 years colour service and 03 years of reserve liabilities as per terms of engagement signed by the applicant at the time of recruitment in the Army.

11. It is true that at the time of enrolment certain terms and conditions are laid down in the offer of appointment and an individual has to accept the same in order to join service. No doubt, it was a contract at that point of time but once an individual joins service, he is governed by service rules and regulations. In the relevant service rules, there is provision for voluntary retirement or premature discharge on stated grounds. Therefore, the applicant cannot be kept away from the statutory rights if

he has moved such an application for premature discharge from service on compassionate grounds due to ill health of his family members.

12. We find that respondents have cited deficiency of personnel in applicant's trade as a ground for rejecting his request. But considering all aspects of the matter i.e., improved Covid Pandemic situation and recommencement of recruitment in the Army and also applicant being a Vehicle Driver in comparison to a special/technical trade, we are of the view that applicant's case needs re-consideration and review by the competent authority for grant of premature discharge on compassionate grounds specially keeping in view ill health of members of his joint family.

13. Accordingly, Original Application is **disposed off** finally with direction to the respondents to review and reconsider the prayer of the applicant for premature discharge from service on compassionate grounds, keeping in view the overall improved situation post Covid-19 Pandemic and also commencement of recruitment in the Indian Army and restriction imposed by the Army for premature discharge being upto June 2024, within a period of four months from the date of this order and communicate the decision to the applicant accordingly.

14. No order as to costs.

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

**(Vice Admiral Atul Kumar Jain)**  
**Member (A)**

Dated : February, 2024  
SB

**(Justice Anil Kumar)**  
**Member (J)**



Form No. 4

**{See rule 11(1)}**  
**ORDER SHEET**

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

**Court No.1****O. A. No. 871 of 2023****Ex Hav (DVR/MT) Yamanappa Rannavagol**

Applicant

By Legal Practitioner for the Applicant : Shri Manoj Kumar Awasthi, Advocate

Shri Anshuman Srivastava, Advocate

Versus

Union of India &amp; Others

Respondents

By Legal Practitioner for Respondents : Shri Bipin Kumar Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>21.02.2024</u>  <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u>  <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <ol style="list-style-type: none"> <li>1. Judgment pronounced.</li> <li>2. O.A. No. 871 of 2023 is disposed off.</li> <li>3. For orders, see our judgment and order passed on separate sheets.</li> </ol> <p>(Vice Admiral Atul Kumar Jain) Member (A)</p> <p>(Justice Anil Kumar) Member (J)</p> <p>SB</p>