

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LCKNOW**

Original Application No. 956 of 2024

Monday, this the 10th day of March, 2025

Hon'ble Mr. Justice Anil Kumar, Member (J)
Hon'ble Lt Gen Anil Puri, Member (A)

No. 5340983E, Ex Nk Madan Singh Chhetri, S/o Chander Singh Chhetri, R/o C/o Shri Shankar Bahadur Gurung Vill.- Thakurpur PO. Umedpur, Prem Nagar Distt.- Dehradun, Uttarakhand.

..... Applicant

By Legal Practitioner – **Shri Pankaj Kumar Shukla**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defense, 101 South Block, New Delhi-110011.

2. The Chief of the Army Staff, Integrated Headquarter of the Ministry of Defence (Army), South Block, New Delhi-110011.

3. Raksha Suraksha Corps Abhilekh, Defence Security Corps Records PIN-901227, C/o 56 APO.

4. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad (Now Prayagraj).

..... Respondents

By Legal Practitioner – **Shri Adesh Kumar Gupta**, Advocate
Central Government Counsel

ORDER (Oral)

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

(i) To issue/pass an order or directions to the respondent to condone the short fall period of one month and twenty seven days in qualifying service for grant of second service pension of DSC and accordingly grant the second service pension monthly.

(ii) To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.

(iii) To allow this original application with costs.

2. Heard Shri Pankaj Kumar Shukla, learned counsel for the applicant, Shri Adesh Kumar Gupta, learned counsel for the respondents and perused the record.

3. Briefly stated facts are that the applicant was enrolled in the Indian Army on 10.12.1971 and after completing 22 years and 22 days of service he was discharged from service on 31.12.1993 (AN). He was re-enrolled in Defence Security Corps (DSC) on 28.02.1996, and after completing 14 years, 09 months and 29 days of service he was discharged from service on 31.12.2010 (AN) on superannuation under Rule 13 (3) III(i) of the Army Rules, 1954. As per rules, 15 years of minimum service is required for earning second service pension, but as there was deficiency of about 61 days in the case of applicant, the applicant has not been granted second service pension. The applicant preferred a representation to condone the shortfall period in qualifying service for grant of second service pension but till date no action has been taken by the respondents. It

is in this perspective that the applicant has preferred the present Original Application.

4. It is submitted by learned counsel for the applicant that as per Regulation 125 of Pension Regulations for the Army, 1961 (Part I) / Regulation 44 of the Pension Regulations for the Army, 2008, (Part I), Ministry of Defence, Department of Defence letter dated 14.08.2001 and ADGPS letter dated 26.09.2003, condonation of shortfall in qualifying service for grant of pension in respect of personnel below officers rank from six months upto 12 months is allowed. However, there being a shortfall of about one month and 27 days in case of applicant, the shortfall was not condoned in view of Government of India, Ministry of Defence, letter No. 14(02)/2011-D (Pen/Pol) dated 20.06.2017 and Principal Controller of Defence Account (Pension) Circular No. 589. In Para 'c' of the above letter it is stated that 'the intention behind grant of condonation of deficiency in service for grant of service pension is that the individual must not be left high and dry but should be eligible for at least one service pension and in view of this, it is clarified for grant of second service pension. Submission of learned counsel for the applicant is that above Government of India, Ministry of Defence, letter dated 20.06.2017 being against Regulation 44 of the Pension Regulations for the Army, 2008 (Part I) and Ministry of Defence letter dated 14.01.2001 and Additional Director General Personnel Services (ADGPS) letter dated 26.09.2003 is ultra virus.

5. Learned counsel for the applicant further submits that Regulation 173 of Pension Regulation for the Army, 2008 (Part I) or Regulation 226 of Pension Regulations for the Army, 1961 (Part I), clearly says that grant of pensionary award to personnel of DSC shall be governed by the same Regulations as are applicable to the personnel below officers' rank in the Army except where they are inconsistent with the provisions of Regulations. Thus, he submits that Government of India, Ministry of Defence, letter dated 14.08.2001 and letter dated 26.02.2003 being equally applicable in case of the applicant also, deficiency of shortfall in minimum qualifying service is liable to be condoned and applicant be entitled to second service pension.

6. Per contra, learned counsel for the respondents submits that intention behind condonation of service for grant of service pension being based on the policy that individual must not be left high and dry but should be eligible for at least one service pension and the same being not applicable for the second service pension in respect of DSC, Government of India has issued letter dated 20.06.2017, and keeping in view this letter and also that there is deficiency of about two months and one day in qualifying service, as such, applicant is not entitled to second service pension.

7. Having heard the submissions of learned counsel both sides and having gone through Regulation 44 of the Pension Regulations for the

Army, 2008 (Part I) or Regulation 125 of Pension Regulations for the Army, 1961 (Part I) as well as Government of India, Ministry of Defence letter No. 14 (02)/2011-D(Pen/Pol) dated 20.06.2017, we find that issue regarding condonation of deficiency in minimum qualifying service regarding second service pension of DSC being cropped up in so many cases has not only been dealt with by the different Benches of the Armed Forces Tribunal but also by the Hon'ble Apex Court in the case of ***Union of India Vs. Surender Singh Parmar*** in Civil Appeal No. 9389 of 2014, decided on 20.01.2015, and it has been held therein that the deficiency in qualifying service upto one year is condonable. Taking note of the above and also that there is deficiency of only two months and one day in qualifying service of the applicant and the said deficiency is condonable under Regulation 44 of the Pension Regulations for the Army, 2008 (Part I) or Regulation 125 of the Pension Regulations for the Army, 1961 (Part I), we find that applicant's claim regarding condonation of deficiency in qualifying service for the grant of second service pension has wrongly not been granted to the applicant.

8. Accordingly, Original Application No. 956 of 2024 is **allowed**. The shortfall of two months and one day in minimum qualifying service of the applicant in getting second service pension is condoned. Applicant is held entitled to get second service pension in DSC as well in addition to pension which he is already getting from the Army.

9. The respondents are directed to grant second service pension to the applicant from the next date he completed 15 years qualifying service.

The respondents are directed to pay arrears of second service pension from the date of notionally completion of 15 years of service. They are further directed to implement this order within a period of four months from the date of receipt of certified copy of this order. Delay shall carry interest @ 8% per annum till actual payment.

10. No order as to costs.

11. Pending misc application (s), if any, shall stand disposed off.

(Lt. Gen. Anil Puri)
Member (A)

(Justice Anil Kumar)
Member (J)

Dated: 10.03.2025
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