

**RESERVED**  
**E. Court**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW  
CIRCUIT BENCH AT NAINITAL  
(THROUGH VIDEO CONFERENCING)**

**Original Application No 890 of 2024**

Tuesday, this the 18<sup>th</sup> day of March, 2025

**Hon'ble Mr. Justice Anil Kumar, Member (J)**  
**Hon'ble Vice Admiral Atul Kumar Jain, Member (A)**

No. 4172478F Ex. Nk. Kripal Singh,  
S/o Late Harak Singh Bisht  
R/o Village – Mauna, Post Office – Choukuni,  
Tehsil – Ranikhet  
District – Almora (Uttarakhand)

..... **Applicant**

Ld. Counsel for the Applicant: **Shri M.S. Bhandari**, Advocate

Versus

1. The Union of India, through Secretary, Ministry of Defence, 101, South Block, New Delhi-110011.
2. The Chief of the Army Staff, Integrated Headquarters of the Ministry of Defence (Army), South Block, New Delhi-110010.
3. Additional Director General of Personnel Services, AG's Branch, Army Headquarters, DHQ PO, New Delhi-110001.
4. Defence Security Corps Records, PIN-901227, C/o 56 APO.
5. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad.

..... **Respondents**

Ld. Counsel for the Respondents : **Shri Rajesh Sharma**, Advocate  
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 for the following reliefs:-

“8.1 Issue/pass an order or directions to the respondents to condone the short fall service of 10 months and 25 days service and to further grant the 2<sup>nd</sup> service pension to the applicant from the date of his discharge from Defence Security Corps i.e. 31.07.2017 along with arrears and interest.

8.2 Issue any other relief to which the applicant is found entitled may also very kindly be granted to the applicant.

8.3 Award cost of the Original Application to the Applicant.”

2. Briefly stated facts are that applicant was initially enrolled in the Kumaon Regiment of Indian Army on 05.03.1979 and discharged from service on 31.03.2003 on completion of terms of engagement after rendering 24 years and 27 days of qualifying service under Rule 13(3) Item III (i) of the Army Rules, 1954 for which he is in receipt of service pension. Thereafter, he was re-enrolled in Defence Security Corps (DSC) on 25.06.2003 and after rendering 14 years, 01 month and 06 days qualifying service, applicant was discharged from service on 31.07.2017 (AN) on attaining the age of superannuation i.e. 57 years under the provisions of Army Rule 13 (3) Item III (i) of the Army Rules, 1954. As per rule, 15 years of minimum service is required for second service pension, but as there was deficiency of 10 months & 25 days in qualifying service, applicant was not granted second service pension of DSC. Applicant has preferred the present Original Application for condoning the short fall in service for grant of second service pension for his services rendered in Defence Security Corps.

3. It is submitted by learned counsel for the applicant that as per Govt. of India, Ministry of Defence letter dated 14.08.2001

condonation of shortfall in qualifying service for grant of pension in respect of personnel below officers rank shortfall of 12 months in qualifying service is allowed. However, there being a shortfall of 10 months and 25 days in the case of applicant, shortfall was not condoned by the respondents in view of Govt. of India, Ministry of Defence letter dated 14.08.2001. In this regard, applicant submitted an appeal dated 31.05.2024 for grant of second service pension but the same hasnot been decided/replied by the respondents. Learned counsel for the applicant also relied upon Judgment of Armed Forces Tribunal (PB) New Delhi in the case of OA No. 1238/2016, **Smt. Shama Kaur Versus Union of India & Others**, decided on 01.10.2019, Armed Forces Tribunal (RB) Chandigarh in OA No. 333/2015, **Uday Singh vs. Union of India and Others**, decided on 31.05.2016 and the Hon'ble Apex Court judgment in the case of **Union of India and another vs. Surinder Singh Parmar** in Civil Appeal No. 9389 of 2014, decided on 20.01.2015.

4. Learned counsel for the applicant further submitted that Para 44 of Pension Regulations for the Army, Part - I, 2008, clearly says that grant of pensionary award to personnel of DSC shall be governed by the same Regulations as are applicable to 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 being equally applicable in case of applicant also, deficiency of 10 months and 25 days in

minimum qualifying service is liable to be condoned and applicant is entitled to second service pension.

5. Per contra, learned counsel for the respondents has vehemently opposed and submitted that applicant on attaining the age of 57 years was discharged from DSC service w.e.f. 31.07.2017 (AN) under the provisions of Army Rule 13 (3) item III (i) (a) after rendering 14 years, 01 month and 06 days qualifying service for which he was paid service gratuity and retirement gratuity. Applicant is deficient of 10 months and 25 days for grant of second service pension. He submitted that in terms of Regulation 132 of Pension Regulations for the Army, 1961 (Part-1) and Regulation 47 of Pension Regulations for the Army 2008 (Part-1), 'unless otherwise provided for, the minimum qualifying service for earning a service pension is 15 years'. In the instant case, the applicant had rendered only 14 years, 01 month and 06 days qualifying service in DSC. Hence, he is not entitled for grant of second service pension for the service rendered by him in DSC. His case cannot be considered for condonation of deficiency in qualifying service for grant of second pension in terms of Govt of India, Ministry of Defence letter no. 14(2)/2011/D(Pen/Pol) dated 23 April 2012, as he is already in receipt of one service pension for the former service rendered by him in the Army. The 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 clarified that 'no condonation shall be allowed for grant of second service pension'. He further submitted the Union of India has filed multiple SLP, titled Dy. No. 27246/2023, **UOI Vs Ex Hav Balakrishan Mullikote** and Dy. No. 27300/2023, **UOI Vs Nk Boja Rajan** in which notices have been issued and the Hon'ble Supreme Court granted stay accordingly. Keeping in view the stay granted by the Hon'ble Supreme Court and also that there is deficiency of 10 months and 25 days in qualifying service, the applicant is not entitled to second service pension.

6. Having heard the submissions of learned counsel both sides and having gone through Regulations 125 and 132 of Pension Regulations for the Army, 1961 (Part-1) read with Regulations 44 and 47 of Pension Regulations for the Army, 2008 (Part-1), the Hon'ble Apex Court judgment in ***Union of India & Ors vs. Surinder Singh Parmar and Ors*** in Civil Appeal No. 9389/2014, decided on 20.01.2015 and Armed Forces Tribunal (Principal Bench) New Delhi judgment in O.A. No. 60 of 2013, **Bhani Devi, vs. Union of India & Ors**, decided on 07.11.2013, O.A. No. 131 of 2017, **Ex Nk Mohanan T. vs. Union of India and Others**, decided on 12.10.2017 and O.A. No. 272 of 2018, **Ex Nk Vijay Singh vs. Union of India and Others**, decided on 14.10.2020, we find that issue regarding condonation of deficiency in minimum qualifying service regarding service pension has been dealt with by different Benches of the Armed Forces Tribunal and it has been held therein that deficiency in qualifying

service upto one year is condonable. Taking note of the above and also that there is deficiency of less than one year in qualifying service of the applicant and the said deficiency is condonable under Regulation 125 of Pension Regulations for the Army, 1961 (Part-1) [Regulation 44 of Pension Regulations Part-1, (2008)], we find that applicant's claim regarding condonation in deficiency in qualifying service for the grant of second service pension deserves to be allowed.

7. Accordingly, Original Application is **allowed**. The shortfall of 10 months and 25 days 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.

8. The respondents are directed to grant second service pension to the applicant from the next date of discharge from DSC service. However, due to law of limitations settled by the Hon'ble Supreme Court in the case of ***Shiv Dass vs. Union of India***, reported in 2007 (3) SLR 445, the arrears of second service pension will be restricted to three years preceding the date of filing of the instant Original Application. The date of filing of this Original Application is 09.09.2024. The respondents are directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @8% per annum till actual payment.

9. No order as to costs.
10. Misc. Application(s), pending if any, shall stand disposed off.

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

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

Dated: March, 2025  
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