

**E-Court****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 490 of 2021**Thursday, this the 13<sup>rd</sup> day of October, 2022**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)  
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Ex L/Nk Mukesh Kumar Ravi (No. 10505514F Retired L/Nk)  
S/o Sri Siya Lal Roy, Residing at Village- Nilo Rukundpur,  
Post- Dabhaichh, Tehsil – Mahua, Vaishali, Bihar- 843110.

..... Applicant

Ld. Counsel for the Applicant : Shri Himanshu and Shri Hemant  
Gupta (Both Not Present).

Versus

1. Union of India, Ministry of Defence, through its Secretary.
2. Additional Directorate General Personnel and Services, Adjutant General Branch, Integrated HQ of Ministry of Defence (Army), 419, A-Wing, Sena Bhawan, DHQ- PO, New Delhi. 110011, through its Director General.
3. Commanding Officer, 151 Infantry Battalion (Territorial Army), The JAT Regiment, Bareilly.
4. Records The JAT Regiment, Pin- 900496, C/o 56 APO.
5. Principal Controller of Defence Accounts, Allahabad through its Commanding Officer.

.....**Respondents**

Ld. Counsel for the Respondents. : **Dr. Gyan Singh,  
Central Govt. Counsel**

**ORDER**

**“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”**

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

- (a) To direct the Opposite Parties to grant the applicant, the payment of admissible service pension along with interest at the rate of 18% per annum from the date of superannuation of the applicant i.e. 30.06.2019 to the date of actual payment after condoning the shortfall in qualifying service.*
- (b) To pass any other order which this Hon’ble Tribunal may deem just and proper in the facts and circumstances of the case.*
- (c) To award the costs of the case.*

2. Brief facts of the case are that the applicant was enrolled in Territorial Army on 21.06.2002 and was discharged from service on 30.06.2019 after rendering 17 years and 14 days of total service on completion of terms of engagement in terms of Rule 14 (a) of Territorial Army Regulations 1948 read with Rule 13 (3) III (i) of Army Rules, 1954. Applicant was not granted service pension on retirement. He submitted representation for grant of service pension but the same was denied. Being

aggrieved, the applicant has filed this Original Application with the prayer to condone shortfall period and grant him service pension.

3. Applicant in the petition pleaded that after enrolment, he served in different part of the country. He participated in "Operation Rakshak" from the year 2003 to 2006. He again participated in "Operation Rhino" from the year 2010 to 2014. During service, he attended 18 annual training camps. Applicant being a matriculate servicemen with fifteen years of service was granted an education certificate treating him a Graduate. On discharge, he was issued a service certificate containing details of embodied service and disembodiment service. As per details furnished, total embodied service to the credit of the applicant was indicated as 13 years and 237 days whereas the period of disembodiment service was indicated as 2 years and 142 days. Total engagement period and qualifying service of the applicant from 21.06.2002 to 30.06.2019 was shown as 17 years and 14 days. Respondents have not computed his embodied and disembodiment service properly. Respondents have indicated embodied service as 13 years and 237 days and disembodiment service as 02 years and 142 days which comes to 16 years and 14 days. In the event of

reduction of period of disembodiment service of 02 years and 142 days from the total period of 17 years and 14 days, the total service to the credit of the applicant would be 14 years and 237 days and a shortfall of about 128 days may occur which is condonable in terms of Government of India Circular dated 14.08.2001. Applicant pleaded that period of shortfall in his pensionable service be condoned and respondents be directed to grant service pension to him.

4. On the other hand, learned counsel for the respondents submitted that applicant was discharged from service on 30.06.2019 after rendering 17 years and 14 days of total service in Territorial Army. He earned 13 years and 237 days embodied and 02 years and 142 days disembodiment service in his credit during his entire service tenure. As per Rule 132 of the Pension Regulations for the Army 1961 (part-I), and Rule 47 of Pension Regulations for the Army 2008 (Part- I), minimum qualifying colour service to earn service pension is 15 years. Applicant has rendered only 13 years and 237 days embodied service, hence he is deficient of 01 year and 128 days of qualifying service for grant of service pension. As per Para 1 (V) of letter dated 14.08.2001, upto 1 year shortfall period in pensionable qualifying service is condonable. There is no provision in

Pension Regulations for the Army wherein condonation may be granted for more than one year. He pleaded that application being devoid of merit is liable to be dismissed.

5. We have heard learned counsel for the respondents and perused the material placed on record.

6. In the instant case applicant was enrolled in Territorial Army on 21.06.2002 and was discharged from service on 30.06.2019 on fulfilling the terms of engagement. As per Territorial Army Western Command letter dated 29.10.2002, service condition for Other Ranks (Non Dept) unit is 50 years of age or on completion of 17 years of service whichever event occurs first. He rendered 17 years and 14 Days of total service in different spells of tenures, out of which total embodied service rendered by him was 13 years and 237 days only. As far as disembodiment service of the applicant is concerned, respondents have wrongly calculated disembodiment service in their service details certificate. Total disembodiment service rendered by the applicant was 03 years and 142 day and not 02 years and 142 days as mentioned in service details certificate. Service pension is granted on completion of 15 years of colour service. Applicant was rightly rejected service pension as he

was not meeting criteria for grant service pension. In the case in hand, there is shortfall of 01 year and 128 days of qualifying service for grant of service pension and there is no provision to condone the deficiency in service for more than one year.

7. In the result, short fall of 01 year and 128 days qualifying service for grant of service pension is not condonable in terms of Government of Indian Circular dated 14.08.2001, therefore, applicant's prayer to grant service pension after condoning short fall is not sustainable. Hence, applicant is ineligible for grant of service pension.

8. Consequently, the application being devoid of merit is liable to be dismissed. Resultantly, O.A. is **dismissed**.

9. No order as to costs.

10. Pending Misc. Application(s), if any, shall stand disposed of.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)  
**Member (A)** **Member (J)**

Dated : 13 October, 2022

Ukt/-