

**ARMED FORCES TRIBUNAL,  
Regional Bench, Guwahati  
(By Virtual Mode)**

**OA-13/2025**

**Naib Subedar  
Saurav Kumar**

Applicant

**..... Applicant**  
By legal practitioners for

Bornali Bhuyan, Senior Advocate  
Pratik Bhowmick, Advocate  
Jyotirmoi Das, Advocate  
Rupanjali Das, Advocate

**-Versus-  
UOI & Ors**

**..... Respondents**  
By legal practitioner for Respondents  
PJ Barman, CGSC

**CORAM:**

**HON`BLE MS JUSTICE NANDITA DUBEY, MEMBER (J)  
HON`BLE LT GEN C.P. MOHANTY, MEMBER (A)**

**ORDER**

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this OA seeking premature discharge (hereinafter 'PMR') from the Indian Army. Aggrieved by the rejection of his application for grant of PMR, the applicant has approached this Tribunal. Therefore, it is necessary to indicate certain facts

of the case before considering the issue in question.

2. The Applicant was enrolled in the Indian Army on 22.12.2005 and has rendered more than 20 years of dedicated and unblemished service to the nation. He is presently serving with 952 Transport Company Army Supply Corps Type "A" at Narangi Cantonment, Assam. Having completed the mandatory qualifying service required for voluntary retirement, the Applicant submitted an application dated 06.05.2025 seeking Premature Retirement on compassionate medical grounds.

3. It is the submission by the Ld Counsel for the applicant that the Applicant's request was duly examined and recommended by the competent authorities in the chain of command, i.e.: Brigadier Army Supply Corps, HQ 101 Area on 02.06.2025, and Major General ASC, HQ Eastern Command on 12.07.2025. The applicant avers that these recommendations demonstrate that the Applicant's superiors, who were fully aware of his personal circumstances as well as service requirements, found merit in his request and considered his case deserving of sympathetic consideration. However, despite these recommendations, the Applicant did not receive any positive decision on his application. Consequently, he submitted a representation dated 07.08.2025 before the Director General Supply & Transport (ST-12). The Applicant's representation was rejected vide order dated 08.09.2025,

and he was simultaneously issued a posting order dated 28.07.2025 directing him to move to HQ 4 Sector Rashtriya Rifles, a field formation.

4. Ld Counsel further submitted that the impugned rejection order fails to properly appreciate the exceptional medical and family circumstances placed on record. The Applicant's wife has been undergoing prolonged medical treatment for Primary Infertility since the year 2017 in both civil and military hospitals. After years of treatment and medical intervention, she gave birth to premature twin children through a caesarean section on 21.06.2025. Premature infants require constant medical supervision, frequent hospital visits, and special care during their early development stages. The Applicant's wife herself continues to remain under medical care following the complicated delivery. Further, the Applicant's aged father and mother, who reside in their native place, are suffering from various old-age ailments and are not in a position to provide the necessary support and care to the Applicant's wife and newborn children. In these circumstances, the Applicant is the sole able member of the family capable of providing emotional, physical, and logistical support, which is presently indispensable for the wellbeing of his family.

5. Ld Counsel for the applicant further argued that due to these grave personal circumstances, the Applicant has been experiencing significant

mental stress and emotional strain. These factors inevitably affect his ability to perform his regimental duties with the level of efficiency expected in the Armed Forces. The continuing in service under such extreme family hardship is not only detrimental to his own mental health but may also affect operational efficiency. In such circumstances, permitting him to seek Premature Retirement would serve the interests of both the individual and the organisation.

6. Ld Counsel for the applicant argues that the Applicant has already completed more than 20 years of qualifying service, which is significantly beyond the minimum qualifying service of 15 years prescribed under Regulation 132 of the Pension Regulations for the Army, 1961 (Part I) for consideration of voluntary retirement. Thus, the Applicant fully satisfies the statutory eligibility requirements for seeking voluntary retirement and cannot be said to be seeking discharge prematurely without fulfilling the prescribed service conditions.

7. Ld Counsel for the applicant further argues that the Respondents have stated that the Applicant's case is placed at Serial No. 206 in the PMR waitlist. However, it remains unclear whether the Applicant's request on compassionate medical grounds has been considered separately or has been mechanically clubbed together with cases of personnel seeking PMR.

for routine or personal reasons. The Applicant submits that cases involving serious compassionate or medical circumstances deserve a distinct and more humane consideration rather than being subjected to a rigid queue system intended for general PMR requests. Failure to differentiate between these categories results in an arbitrary and mechanical application of policy, defeating the very purpose of compassionate consideration.

8. Ld Counsel further submitted that the issuance of a posting order to HQ 4 Sector Rashtriya Rifles, which is an operational field formation, further aggravates the hardship faced by the Applicant. Such posting would significantly restrict his ability to provide the necessary care and support to his medically vulnerable family members. The Respondents ought to have considered the humanitarian dimensions of his case before issuing such an order.

9. Ld Counsel for the applicant submits that the Armed Forces have consistently upheld a tradition of balancing discipline with compassion for genuine cases of hardship. The Applicant's case represents an exceptional situation involving prolonged infertility treatment, premature birth of twins, and absence of family support due to the advanced age of his parents. In such circumstances, a rigid and mechanical denial of relief defeats the principles of fairness, equity, and humanitarian consideration.

10. In light of the facts and circumstances stated above, Ld Counsel of the applicant prays for setting aside the impugned order dated 08.09.2025 rejecting the Applicant's request for Premature Retirement alongwith quashing of posting order dated 28.07.2025 transferring the Applicant to HQ 4 Sector Rashtriya Rifles and direct the Respondents to reconsider the Applicant's request for Premature Retirement on compassionate medical grounds in a fair and humane manner, taking into account the exceptional circumstances of the case.

11. Per Contra, Learned Counsel for the Respondents submits that the discharge from service on compassionate grounds in respect of Army personnel are considered on case to case basis by the competent authority keeping in mind the gravity of the problems being faced by the applicant as well as service exigencies.

12. Ld Counsel for the Respondent further submitted that the present Original Application is devoid of merit and is liable to be dismissed. The Applicant seeks premature retirement primarily on personal and compassionate grounds by requesting this Hon'ble Tribunal to direct the Respondents to grant him relief bypassing the established seniority-based waitlist. Such a request, if allowed, would disrupt the uniform policy framework governing manpower management in the Armed Forces and

would prejudice the rights of numerous personnel senior to the Applicant who are awaiting consideration under the same policy.

13 Learned Counsel for Respondents submits that it is a settled principle of Military Law that a member of the Armed Forces does not possess an absolute or vested right to seek premature retirement during the currency of engagement. Premature Retirement (PMR) is not a matter of entitlement but only a request which may be considered subject to administrative discretion and service exigencies. This principle is constitutionally recognized under Article 33 of the Constitution of India, which empowers Parliament to restrict or modify fundamental rights of members of the Armed Forces to ensure the proper discharge of duties and maintenance of discipline. Consequently, the freedom to practice a profession under Article 19(1)(g) is necessarily restricted in the case of armed forces personnel.

14. Stressing further, the Ld counsel for the respondent submits that the Hon'ble Supreme Court in *Amit Kumar Roy vs Union of India* categorically held that a member of the Armed Forces does not have an unqualified right to leave service at will during the term of engagement. The Court observed that permitting such an interpretation would adversely affect manning levels and operational preparedness of the Armed Forces. Similarly, the Armed Forces Tribunal (Principal Bench) in *Lt Col Pranati Swain vs Union of India*

held that the grant of Premature Retirement is neither a vested right nor a statutory right but merely an option to seek permission. The Competent Authority is required to examine such requests in light of administrative requirements and the exigencies of service, and the Tribunal ordinarily ought not to substitute its own decision in matters involving manpower management unless there is manifest arbitrariness or mala fide.

15. Ld Counsel for the Respondent further added that the rejection of the Applicant's request is not arbitrary but is based on a transparent and policy-driven mechanism established by the Integrated Headquarters of the Ministry of Defence (Army). The sanction of PMR is regulated through a 1% annual quota system in order to maintain operational strength and continuity within the force. The Respondents respectfully submit the factual position Seniority Based waitlist in the Clerk trade, the authorized strength is 9,142 personnel, resulting in a limited annual PMR vacancy of approximately 81 individuals. The Applicant presently stands at Seniority No. 206 out of 235 personnel in the waitlist. Requests are processed strictly on a "first come, first serve" basis. Granting relief to the Applicant out of turn would be contrary to the established policy and would prejudice the legitimate expectations of 205 personnel senior to him who are awaiting consideration.

16. Ld Counsel further argues that the Applicant's request falls under the normal PMR quota system applicable to all personnel. Personal difficulties, though unfortunate, cannot override statutory engagement obligations and operational requirements of the service. The Respondents have acted strictly in accordance with established Army Orders, policy guidelines, and judicial precedents. The decision to reject the Applicant's request is based on objective considerations of manpower availability, operational requirements, and fairness to other personnel in the queue.

17. We have heard the learned counsel for parties at length and carefully perused the material placed on record. At the outset, it is necessary to observe that when an individual is enrolled into the Armed Forces, such enrollment is governed by specific terms and conditions stipulated in the offer of appointment. The individual enters service with full knowledge and acceptance of these conditions, which regulate the tenure, obligations, and other incidents of service. It is well settled in service jurisprudence that a member of the Armed Forces is bound by the terms of engagement governing his service.

18. It is equally a settled principle of law that the grant of Premature Retirement (PMR) cannot be claimed as a matter of right. Such requests are subject to the discretion of the competent authority and are considered in

the light of prevailing administrative policies, manpower requirements, and the exigencies of service. In a disciplined force like the Army, the requirements of service and operational preparedness are of paramount importance, and any request for premature release is required to be examined keeping in view the larger organizational interest. Therefore, the consideration of a request for premature retirement necessarily involves a careful balancing of individual circumstances with administrative and operational requirements, and the competent authority is vested with the discretion to grant or decline such requests depending upon the facts and circumstances of each case and the prevailing service conditions.

19. The AFT RB Mumbai in ***OA-66 of 2022 – Hav Hariom Singh Chauhan v. Union of India & Ors.*** observed that temporary operational constraints, such as manpower shortages or pandemic-related delays, cannot operate as a permanent bar to consideration of applications for premature discharge on compassionate grounds. The Tribunal further held that each application must be examined on its individual merits, ensuring a fair and reasoned exercise of discretion. This position finds support in other authoritative AFT decisions, including ***Sujith v. Union of India & Ors.,*** OANo.1041 of 2023 (Armed Forces Tribunal, Regional Bench, Lucknow, 06 March 2024), where the Tribunal emphasized that compassionate

grounds should be genuinely considered notwithstanding organizational requirements, and ***Ex Naik Angad Singh v. Union of India, OA No. 152 of 2014***, Principal Bench clarified that premature discharge requires careful assessment of service rules, personal circumstances, and statutory entitlements. In light of these principles, the present case is directly analogous and merits similar compassionate consideration, consistent with the exercise of fair discretion as recognized by the Tribunal in these decisions.

20. The Applicant has sought premature retirement on account of serious medical conditions of his new born twin children. The Respondents have duly considered the matter and have found the request devoid of merit. It is well settled that the grant of premature retirement is not a matter of right, but is to be considered in light of administrative requirements and organisational exigencies. Consequently, the scope of judicial review in such matters is limited, and interference by this Tribunal or the Court can be warranted only in exceptional circumstances. In particular, where the circumstances relied upon by the Applicant are to be weighed against the administrative and operational requirements—such as shortages in technical manpower—this Tribunal cannot substitute its own discretion for that of the competent authority.

21. However, this Tribunal cannot lose sight of the fact that service jurisprudence, particularly in matters relating to members of the Armed Forces, must balance the requirements of discipline and organizational efficiency with considerations of fairness and humanity. Where an individual is confronted with acute and prolonged medical difficulties within the family, which substantially disrupt his daily routine and demand continuous care and attention, such circumstances cannot be brushed aside by adopting a purely mechanical application of policy.

22. From the medical documents placed on record, it prima facie appears that the Applicant's family and in particular his children require sustained medical supervision. In a situation where no other family member is available to provide the necessary care and support, the burden inevitably falls upon the Applicant. Such circumstances are capable of causing serious mental stress and emotional strain, which may adversely affect his ability to effectively discharge the duties expected of him in a disciplined force.

23. While it is true that premature retirement is not a matter of right and remains subject to the discretion of the competent authority having regard to service exigencies, the decision-making process must nevertheless reflect due application of mind to the peculiar facts and humanitarian considerations involved. Administrative authorities are expected to examine

such cases with sensitivity and fairness rather than through a rigid or mechanical adherence to procedural norms.

24. If a service member, owing to compelling family medical circumstances, is rendered unable to perform his assigned duties with the required degree of efficiency, continued retention in service may not only aggravate the hardship faced by the individual but may also ultimately prove counterproductive to the organizational interest. In such exceptional situations, the authorities are expected to adopt a pragmatic and humane approach while balancing individual hardship against the requirements of against the requirements of service. Therefore, cases involving genuine and substantiated medical hardship within the family warrant careful and compassionate consideration by the competent authority so that the decision arrived at reflects both administrative fairness and the broader humanitarian values that underpin public service institutions.

25. Furthermore, recognition of such an opportunity to take a compassionate view by acceptance of the PMR and provision of an opportunity to do so, is an effort to implement and afford protection to the right to life of every person, the mandate of the provisions of the Constitution, the International Covenants and the spirit of the statutes set out above.

26. In the aforesaid backdrop, it is pertinent to refer to the case of **Major Rahul Shukla Vs Union of India & Ors 59(1995) DLT 573 (DB)**, wherein the Hon'ble High Court has observed as under :-

***"An application for resignation may be rejected if it is not based on adequate and justifiable reasons. The over-riding consideration is whether the officer's continuance in service for a specific period is necessary to meet exigencies in a service and alternative arrangements cannot be made. Even in such a case the application for resignation cannot be rejected. It can only be held in abeyance. In the case at hand it is not the case of the respondent that the facts stated by the petitioner in his application for resignation were false or were not adequate or not justifiable. That finding could not have been arrived at inasmuch as the Colonel Commanding Officer having personally reviewed the application, was satisfied of the validity thereof. Any higher authority to form an opinion different from the one expressed by the Colonel Commanding Officer must have been possessed of material concrete enough to form a different opinion which it is not so."***

27. In light of above considerations, vide our orders dated 19.01.2026, we had directed a medical review of the twin children of the applicant by the Commandant, 151 Base Hospital, Guwahati. We have perused the medical report dated 22.01.2026 submitted by the respondents and the findings of the medical authorities are that the medical condition of both the children is stable and they are healthy. However, we cannot lose sight of the fact, that consequent to departure of the applicant to a field station it will be extremely difficult for his wife to single handedly look after the growing children who have had complications at the time of birth. It is also essential to take note of the fact that the old parents of the applicant cannot shoulder the burden of the wife of the applicant.

28. In view of the foregoing discussion and the material on record, this Tribunal is satisfied that the Applicant has placed before it compelling humanitarian circumstances, including prolonged medical treatment of family members and absence of alternative caregivers, which warrant exceptional consideration. While it is settled that Premature Retirement is not a matter of right and ordinarily lies within the discretion of the competent authority, the peculiar facts of the present case call for a compassionate and pragmatic approach.

29. Accordingly, the impugned orders dated 08.09.2025 rejecting the Applicant's request for Premature Retirement. We are conscious of the fact that the Hon'ble Guwahati High Court vide a order dated 22.10.2025 has stayed the transfer order of the applicant to HQ 4 Sector Rashtriya Rifles issued on 28.07.2025. The Respondents are directed to re-process the Applicant's request for Premature Retirement on compassionate medical grounds out of turn as a special case within a period of four weeks from the date of receipt of this order. Needless to add that the applicant if aggrieved shall have liberty to re-agitate the matter.

30. Consequently, this OA 13/2025 is allowed subject to the conditions specified above.

31. Pending miscellaneous application/s if any, also stand disposed of.

32. No order as to costs.

Pronounced in the open Court on 30<sup>th</sup> day of March, 2026.

Sd/-

(JUSTICE NANDITA DUBEY)  
MEMBER (J)

Sd/-

(LT GEN C.P MOHANTY)  
MEMBER (A)

/akc/