

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP (C) No. 610/2024

Union of India and others

.....Applicant(s)/Petitioner(s)

Through :- Mr. Vikas Sharma, CGSC

v/s

Dhhering Dorje

.....Respondent(s)

Through :- Mr. Prabhat Sangotra, Advocate vice
Mr. Rajnish Raina, Sr. Advocate
Mr. P.L. Sharma, Advocate

**CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**

ORDER

12.05.2026

1. The present petition has been filed by the Union of India for setting aside the order dated 14.02.2023 passed by the learned Armed Forces Tribunal, Srinagar Bench at Jammu in O.A. No. 238/2022 titled "*Ex Nk Chhering Dorje vs. Union of India and others*", by virtue of which the respondent herein has been held entitled to the benefit of second service pension after condoning the shortfall in qualifying service.

2. The respondent was initially enrolled in the Indian Army on 09.10.1982 and was discharged on 31.10.2006 on completion of terms of engagement. For the said service, the respondent was granted regular service pension vide PPO No. S/023039/2006 (Army). The respondent was subsequently re-enrolled in the Defence Security Corps (DSC) on 12.09.2007 and was discharged from service on 31.10.2021 after rendering 14 years, 1 month and 19 days of qualifying service.

3. The respondent was not granted pension for the service rendered in the DSC on the ground that he did not possess the minimum qualifying service of 15 years

required for grant of pension. The claim of the respondent was denied on account of a shortfall of 316 days in the qualifying service of 15 years.

4. Aggrieved of denial of service pension for the service rendered in DSC, the respondent approached the learned Armed Forces Tribunal, Srinagar Bench at Jammu by filing O.A. No. 238/2022 seeking grant of service pension after condoning the deficiency of 316 days in qualifying service. The learned Tribunal, vide order dated 14.02.2023, allowed the Original Application and directed the petitioners to condone the shortfall in qualifying service and grant second service pension to the respondent. The operative portion of the order reads as under:

“8. Accordingly, Original Application No. 238 of 2022 is allowed. The shortfall of 316 days in minimum qualifying service of the applicant is 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 date of discharge. 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.”

5. Feeling aggrieved of the aforesaid order of the Tribunal, the petitioners have filed the present petition primarily on the ground that the respondent had admittedly rendered only 14 years, 1 months and 19 days of qualifying service in DSC and was deficient by 316 days from the mandatory minimum qualifying service of 15 years prescribed under Rule 47 of the Pension Regulations for the Army, 2008 (Part-I). It is contended that there exists no provision under the Pension Regulations or Government policy permitting condonation of deficiency in qualifying service for grant of second service pension.

6. Heard learned counsel for the parties and perused the record.

7. The controversy involved in the present petition is whether an individual who has served in the Defence Security Corps (DSC) is entitled to condonation of deficiency in qualifying service for earning pension in DSC while already drawing pension from the previous spell of service. The Hon'ble Apex Court in '**Union of India vs. Surender Singh Parmar**', Civil Appeal No. 9389 of 2014, decided on 20.01.2015, has already held that where the deficiency in qualifying service is less than one year, the same is condonable under Regulation 44 of the Pension Regulations for the Army, 2008 (Part-I). The issue now stands settled in "**Union of India and others Vs. Balakrishnan Mullikote**", reported as **2026 SC INSC 286**.

8. The Hon'ble Supreme Court, while examining an identical issue, has held in paragraphs 47 and 48 of the aforesaid judgment as under:

"47. This Court is of the view that Union of India through the Ministry of Defence shall determine the length of qualifying services in accordance with Paragraphs 9 and 18 of the Pension Regulations, of 1961 and 2008 respectively, as well as Note 5 appended to the letter dated 30th October 1987.

48. If, upon determination of the length of qualifying service, there remains a shortfall of one year or less, the Respondents shall be entitled to seek condonation of such deficiency for the purpose of pension eligibility, in accordance with Paragraph 125 of the Pension Regulations, 1961 or Paragraph 44 of the Pension Regulations, 2008. This position has already been affirmed by this Court in Surender Singh Parmar (supra)...."

9. Thus, the Union of India is required to determine the qualifying service in terms of Paragraphs 9 and 18 of the Pension Regulations of 1961 and 2008 respectively read with Note 5 appended to communication dated 30.10.1987 and, in the event the deficiency in qualifying service is found to be one year or less, the concerned personnel would be entitled to consideration for condonation

of such deficiency under Paragraph 125 of the Pension Regulations, 1961 or Paragraph 44 of the Pension Regulations, 2008.

10. In the present case, admittedly, the respondent falls short of the prescribed qualifying service by 316 days only. The controversy raised in the instant petition, therefore, stands squarely covered by the aforesaid authoritative pronouncement of the Hon'ble Apex Court and does not require any further adjudication on merits by this Court.

11. In view of the aforesaid facts and circumstances of the case, we find no ground for interference in the order passed by the learned Tribunal. The writ petition is accordingly **dismissed** along with connected application(s).

(SHAHZAD AZEEM) (SINDHU SHARMA)
Judge Judge

JAMMU
12.05.2026
Vishal Khajuria

