

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

WP (C) No. 655/2024

CM No. 1588/2024

Date of pronouncement: 28.09.2026

Uploaded on: 30.09.2026

1. **Union of India through its
Secretary to Government of
India, Ministry of Defence, New
Delhi-110011.**
2. **The Chief of the Army Staff,
Integrated Head Quarters of
Ministry of Defence (Army),
Adjutant General's Branch
Additional Directorate General
Personnel Services, DHQ, PO,
New Delhi-110001.**
3. **The Principal Controller Defence
Accounts (Pension) Grant
Section, Allahabad,
Uttar Pradesh-211014.**
4. **The Record Officer, DSC, Mill
Road, Kannur (Kerala – 670013)**

.... Petitioner(s)/Appellant(s)

Through:- Mr. Vikas Sharma, CGSC.

V/s

**No 9083820W Ex Naik Gulzari Lal,
S/o Shri Mohinder Lal,
R/o Village Kharian,
Post Office; Miran Sahib,
Tehsil: RS Pura,
District: Jammu
(J&K)- 180001**

.....Respondent(s)

Through:- Mr. B S Sarmal, Advocate with
Mr. Amit Singh, Advocate

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE YASH PAUL BOURNEY, JUDGE**

ORDER (ORAL)

28.09.2026

01. In this petition filed by the Union of India under Article 226 of Constitution of India, an order and judgment dated 13.10.2022 passed by Armed Forces Tribunal, Regional Bench Srinagar at Jammu [“the

Tribunal”] in O.A. No.267/2021 is under challenge. In terms of the judgment impugned, the Tribunal has allowed the OA of the respondent and directed the petitioners herein to decide the claim of the respondent in accordance with law laid down by the Hon’ble Supreme Court in the case of ‘**Union of India & Anr. Vs. Surinder Singh Parmar**’; **2015(3) SCC 404** within a period of three months.

02. The facts leading to the filing of this petition are that the respondent was initially enrolled in the Indian Army on 01.09.1980 and discharged from service on 31.08.2004 after rendering more than 24 years of service. He was thereafter re-enrolled in Defence Security Code (DSC) on 22.02.2006 and was discharged from there on 31.12.2019 after rendering 13 years and 312 days of service without grant of service pension under the Army Rule 13 (3) (iii) (1). His representation before the authorities yielded no results and, therefore, the respondent filed O.A. No.267/2021 before the Tribunal.
03. The Tribunal, after having heard learned counsel for the parties and perused the material on record, came to the conclusion that the respondent was entitled to make good the shortfall of service in the light of judgment rendered by the Hon’ble Supreme Court in the case of Surinder Singh Parmar (supra). The Tribunal, accordingly, allowed the OA and issued the directions which we have noted hereinabove.
04. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the issue raised by the petitioners in this petition is squarely covered by the judgment rendered by the Hon’ble Supreme Court in the case of Surinder Singh Parmar (Supra) and the later judgment of Supreme Court in the case of

‘Union of India & Ors. Vs. Balakrishnan Mullikote’; (Ex Hav. 256812 M)” 2026 INSC 286.

05. Admittedly, the respondent was ordinarily entitled to service pension in the DSE service after rendering 15 years’ qualifying service and he had only 13 years and 312 days to his credit. There was thus, a shortfall of one year and 53 days. Although there is a provision for making good shortfall of one year qualifying service yet petitioners herein declined to do so on the ground that the shortfall required in the case of respondent was more than a year.
06. It seems that the petitioners rejected the claim of the respondent for service pension on the ground that benefit of shortfall in terms of para 44 of the Pension Regulations, 2008 was not admissible.
07. What the petitioners ignored is Note 5 of para 5 of Instructions dated 30.10.1987 issued by Ministry of Defence, Government of India. This part has been noticed by the Hon’ble Supreme Court both in the case of Surinder Singh Parmar as also in the case of Balakrishnan Mullikote. Para 32 of the judgment rendered in Balakrishnan Mullikote case (Supra) reads as under:

“Consequently, this Court is of the considered view that the Appellants must first determine the length of qualifying service of each of the Respondents. In undertaking such computation, the Appellants are enjoined to give effect not only to the relevant provisions of the Pension Regulations but also to the beneficial stipulation contained in Note 5 of the Government of India letter dated 30th October 1987, which reads as follows:

“Notes:.....

(5) In calculating the length of qualifying service, fraction of a year equal to three months and above but less than 6 months shall be treated as a completed one half year and reckoned as qualifying service.””

08. From the above, it is abundantly clear that fraction of service equal to three months and above but less than six months is required to be treated as complete one half year. That being so, the respondent would be entitled to the benefit of aforesaid provision and will have to his credit 14 years qualifying service. In view of the paragraph 125 of Pension Regulations, 1961 and 44 of the Pension Regulations, 2008, the respondent would be entitled to be considered for shortfall of one year. This would make his qualifying service for pension as 15 years in terms of paragraph 47 of the Pension Regulation of 2008.

09. In view of the aforesaid, we have found no merit in this petition. The same is, accordingly, **dismissed** along with connected application(s).

JAMMU
28.09.2026
Eva

(Yash Paul Bourney)
Judge

(Sanjeev Kumar)
Judge



Whether the order is speaking: No
Whether the order is reportable: Yes