



WEB COPY



W.P.No.26105 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2026

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.26105 of 2025
and W.M.P.Nos.29381 and 29384 of 2025

- 1.Union of India
Rep. by the Secretary
Government of India
Ministry of Defence,
Room No.227 B Wing
Sena Bhawan
New Delhi 110 011
- 2.The Chief of Army Staff
Army Head Quarters
Integrated Head Quarters
DHQ Post South Block
New Delhi 110 011
- 3.The Principal Controller of
Defence Accounts (Pensions)
Draupathi Ghat, Allahabad
- 4.The Officer-in-Charge
The Madras Regiment
Wellington, The Nilgiris
Tamil Nadu

Petitioners

Vs



W.P.No.26105 of 2025

Ex Sep B Kannan
Service No 2584974W
S/o Late Belli Gounder
Mel Kundah
Dodda Combai Post 643219
Tamil Nadu

Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records of O.A.No 131 of 2022 with MA 201 of 2022 dated 23.11.2022 passed by Hon'ble Armed Forces Tribunal, Chennai (Regional Bench) thereby quashing and setting, aside the impugned order.

For Petitioners: Mr.AR.L.Sundaresan
Addl. Solicitor General of India
assisted by
Mr.K.Ramanamoorthy
Sr. Panel Counsel

For Respondent: Mr.L.Rajaiah
for Mr.Soloman Pandian

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

Heard learned counsel for the parties.



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2. The short ground to challenge the order passed by the Armed Forces Tribunal is that the Tribunal ignoring the mandate of the provisions as contained in Regulation 125 of Pension Regulations for the Army, 1961 (*for short, "Regulations"*) has directed condonation of shortfall in the qualifying period of service, which could earn pension.

3. Learned Additional Solicitor General of India referred to the provisions contained in Regulation 125 to submit that exercise of discretion to condone or not to condone, as conferred under the aforesaid Regulations, is available excluding certain cases of exceptional nature as specified in the Regulations itself. One of them is that if a person is discharged on his own request, he could not claim any condonation by invoking the discretion under Regulation 125. The Tribunal completely ignored that the present was a case of discharge on own request. Therefore, the condonation clause itself was not applicable. The order, it is contended, is therefore in excess of jurisdiction and warrants interference of this Court in exercise of powers under Article 226 read with Article 227 of the Constitution of India.



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4. Per contra, learned counsel for the respondent would submit that the order of the Tribunal proceeds on such similar orders passed by the Tribunal in many cases and, therefore, it cannot be said that the respondent is not entitled to those benefits. According to him, such kind of orders have been passed even by the Armed Forces Tribunal, Chennai, in many cases and, if the order is interfered with, the respondent would be excluded from the benefit, which has been granted in many such similarly situated cases.

5. Though learned counsel for the respondent submits that there are many decisions and orders, none of them, upon perusal, are found to be in support of his contention.

6. To be precise and in order to conclude, we need to refer to Regulation 125, which reads thus:

"125. Except in the case of:

(a) an individual who is discharged at his own request, or

(b) an individual who is eligible for special pension or gratuity under Regulation 164.



(c) an individual who is invalided with less than 15 years service, deficiency in service for eligibility to service pension or reservist pension or gratuity in lieu may be condoned by a competent authority upto six months in each case."

7. It is vividly clear that those who have been discharged on their own request are not entitled to seek invocation of the discretion of the authority to condone the deficiency in pensionable period of service. In the present case, the respondent was discharged way back in the year 1996 on his own request even though he had not completed 15 years of qualifying period of service to earn pension. Three decades thereafter he woke up from slumber and moved an application on 29.12.2021 seeking condonation of the deficiency which was responded to by communication dated 7.9.2022 clearly stating that in view of the exception carved out under the Regulations, the benefit could not be granted.

8. The Tribunal has failed to take into consideration the provision of law, particularly, the reason assigned for rejection of



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the representation that the respondent was discharged from service on his own request. The opening part of the order of the Tribunal itself clearly states that the respondent was discharged on his own request. If that be the admitted position, we fail to understand how could the Tribunal pass such an order in transgression of the limits provided under the law. We have no hesitation in holding that the order of the Tribunal is patently illegal and in excess of its jurisdiction.

9. For the reasons stated above, the writ petition is allowed. The order of the Tribunal is set aside and the original application filed by the respondent is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (G.ARUL MURUGAN,J)
09.01.2026

Index : Yes/No
Neutral Citation : Yes/No
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