Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

M.A. No. 66 of 2021 Inre : O.A. No. (Nil) of 2021

Mrs. Mukta Tiwari W/o Late Wg. Cdr. R.K. Tiwari (Retd.) Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri Ashish Kumar Singh, Advocate filed power today in Court on behalf of the respondents which is taken on record. Heard Shri A.K. Pandey and Shri Sudeep Kumar, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents. The Original Application has been filed with delay of 01 year, 03 months and 11 days. Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application. Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation of delay. Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned. Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly. Let Original Application be registered. **O.A. No. 90 of 2021** It is a fit case for adjudication. Admit. Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **26.04.2021** for exchange of pleadings. List the matter before Tribunal on **03.05.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 86 of 2021

Smt. Neelam Singh W/o Late Ex. Rfn. Jitendra Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Ms. Anju Singh, Advocate filed power today in Court on behalf of the respondents which is taken on record. On the case being taken up for hearing Shri Angrej Nath Shukla, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents are present. Ld. Counsel for the applicant prays for and is allowed to correct service number and name of applicant's husband as **"No. 16017511H Late Rfn. Jitendra Singh"** in place of "No. 13995992, Late LNK (Dvr) Raghvendra Shukla" in para 8(b) (Relief Sought) of the Original Application. Let correction be carried out within a period of one week. Heard. It is a fit case for adjudication. Admit. Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **26.04.2021** for exchange of pleadings. List the matter before Tribunal on **03.05.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
M.A. No. 65 of 2021 Inre : O.A. No. (Nil) of 2021

Ex. Nk. Hari Prasad Gurung Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri Yogesh Kesarwani, Advocate filed power today in Court on behalf of the respondents which is taken on record. Heard Ms. Hemlata and Shri Shamshad Alam, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents. The Original Application has been filed with delay of 08 months and 26 days. Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application. Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation of delay. Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned. Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly. Let Original Application be registered. **O.A. No. 89 of 2021** It is a fit case for adjudication. Admit. Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **26.04.2021** for exchange of pleadings. List the matter before Tribunal on **03.05.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 674 of 2020

Ex. JWO Shiv Kant Pandey Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Amit Pandey and Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. As prayed by the Ld. Counsel for the respondents two weeks further time is granted to seek instructions. List on **03.03.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 555 of 2019 with M.A. No. 214 of 2019

AA (W) U/T Sonveer Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Col. A.K. Srivastava, Ld. Counsel for the applicant and Shri Rajiv Pandey, Ld. Counsel for the respondents are present. Counter Affidavit filed by the respondents is taken on record. Ld. Counsel for the applicant submitted that Original Application filed by the applicant being factually incorrect applicant intends to withdraw the same with liberty to file a fresh, if permitted. Accordingly, Original Application is **dismissed** as withdrawn with liberty to file a fresh. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. (A) No. 39 of 2017 with M.A. No. 1237 of 2018

Smt. Sunita Singh W/o Abhishek Kumar Singh (In Custody) Appellant
By Legal Practitioner for the Appellant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the appellant and Dr. Gyan Singh, Ld. Counsel for the respondents are present. Major Tarun Pillai, Departmental Representative is also present. Supplementary Affidavit filed by the respondents is taken on record. We have gone through the Supplementary Affidavit and we find that respondents have not yet filed the Police Investigation Report as well as Forensic Report. They are, therefore, directed to get these filed within two weeks positively. List on **19.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 86 of 2018 Inre : T.A. No. 595 of 2010

Vijay Keshav Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing the applicant Shri Vijay Keshav Singh is present in person. Shri Anurag Singh, Ld. Counsel for the respondents is present and he submitted that compliance of the order has been done. He also submitted that two weeks time be given to him to file affidavit of compliance which is allowed. Respondents are also directed to make deposit of entire costs imposed upon them by the next date fixed. List on **01.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 11 of 2019 Inre : O.A. No. 671 of 2017

Ex. Sub. Shambhu Nath Pandey Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Nilesh Anand, Ld. Counsel for the applicant and Ms. Amrita Chakraborty, Ld. Counsel for the respondents are present. Affidavit of compliance filed by the respondents is taken on record. Ld. Counsel for the applicant admitted that order has been complied with. Accordingly, Execution Application is **dismissed** in full and final satisfaction. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

M.A. No. 456 of 2020 Inre : O.A. (A) No. (Nil) of 2020

Smt. Manju Devi Appellant
By Legal Practitioner for the Appellant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Nishant Verma, Ld. Counsel for the appellant and Ms. Appoli Srivastava, Ld. Counsel for the respondents are present. Ms. Appoli Srivastava, Ld. Counsel appearing on behalf of respondents prays for and is granted a week time to file objection against delay condonation application. List on **22.02.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 117 of 2020 with M.A. No. 957 of 2019

Smt. Jayshree M/o Late Ex. Sep. Anumol Pratap Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Om Prakash Kushwaha, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present. Pleadings are complete and the case is ripe for hearing. List on **12.04.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 112 of 2017 Inre : T.A. No. 1000 of 2010

Smt. Kalawati Devi Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing none appears on behalf of the applicant nor there is any mention on his behalf to pass over the case. Shri D.K. Pandey, Ld. Counsel for the respondents is present. No objection has been filed against affidavit of compliance. We have gone through the affidavit of compliance and we find that order has been complied with. Accordingly, Execution Application is **dismissed** in full and final satisfaction. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 33 of 2020 Inre : O.A. No. 522 of 2017

Ex. Hony. Nb. Sub. Niyaz Ahmed Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri V.P. Pandey, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents are present. Mrs. Anju Singh, Ld. Counsel for the respondents submitted that execution of order is under process. She further submitted that four weeks further time be given to her to file affidavit of compliance. List on **19.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 68 of 2018 Inre : T.A. No. 528 of 2010

Laxmi Prasad Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Vikas Kumar Agrawal, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents are present. As prayed by Shri Asheesh Agnihotri, Ld. Counsel for the respondents four weeks further time is granted to file better affidavit of compliance. List on **22.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 34 of 2019

Sub/Clk (SD) S. Gulam Nabi Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Ms. Tanya, Advocate holding brief of Wg. Cdr. Ajit Kakkar (Retd.), Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Despite Counter Affidavit filed on 03.12.2019 no Rejoinder Affidavit has been filed and, therefore, opportunity to file the same is closed. List on **04.05.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 208 of 2017 Inre : T.A. No. 887 of 2010

Niranjan Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Rajiv Pandey, Ld. Counsel for the respondents are present. In regard to para 4 of objection filed by the applicant against affidavit of compliance Ld. Counsel for the respondents submitted that he has to seek instructions in this regard from the appropriate authorities. Let instructions be sought within two weeks and, thereafter, matter be placed on **22.03.2021** for further order. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 265 of 2017

Smt. Soni Sharma Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Ashok Kumar, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. List on **14.04.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 187 of 2018

Smt. Dilmani Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri B.B. Tripathi, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present. List on **14.04.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 335 of 2017

Tomy Varghese Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Birendra Prasad Singh, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents are present. As prayed, list on **04.02.2021 at 02.30 PM** for physical hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 666 of 2017

Avadh Narain Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Col. A.K. Srivastava (Retd.), Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present. As prayed, list on **09.02.2021 at 02.30 PM** for physical hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

T.A. No. 16 of 2016

Ashutosh Singh Petitioner
By Legal Practitioner for the Petitioner

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri J.N. Mishra, Ld. Counsel for the petitioner and Shri Amit Jaiswal, Ld. Counsel for the respondents are present. List on **22.04.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 164 of 2013

Warrant Officer Shashi Kant Chaturvedi Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri K.K. Singh Bisht, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. List on **05.04.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

T.A. No. 700 of 2010 along with T.A. No. 699 of 2010 and
T.A. No. 701 of 2010 (Decided)

Smt. Poonam Srivastava W/o Anand Kumar Srivastava (Deceased) & Others Applicants
By Legal Practitioner for the Applicants

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicants and Shri D.K. Pandey, Ld. Counsel for the respondents are present. List on **18.03.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 203 of 2012

Smt. Sandhya Rai Applicant
By Legal Practitioner for the Applicant

Versus

Chief of Army Staff & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondent Nos. 1 to 5 and Shri Parijaat Belaura, Ld. Counsel for the respondent No. 6 are present. Respondents want to file written objection against application seeking withdrawal of Original Application filed by the applicant. Let objection be filed within two weeks. List on **05.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 166 of 2019

Ex. Rect. Vinod Kumar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for none appears on behalf of the applicant. Shri Namit Sharma, Ld. Counsel for the respondents is present. List on **15.02.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1

O.A. No. 433 of 2019 along with M.A. No. 770 of 2019

Gp. Capt. B.K.E. Jacob Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Col. Y.R. Sharma (Retd.), Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondent Nos. 1 to 4 are present. Wg. Cdr. P.K.S. Pillai, Shri Debashish Roy, Deputy Director, PO-2 (L), Air Headquarters and Shri Mausam Chakraborty, Assistant Section Officer, Specialist Directorate, Air Headquarters are also present along with records. Ld. Counsel for the applicant sought and is allowed a week time to file impleadment application. The Departmental Representatives present today along with the records need not appear on the next date fixed. List on **12.02.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 237 of 2020

Ex Sep Joseph John Menezes Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri R Chandra, learned counsel for the applicant and Shri Arun Kumar Sahu, learned counsel for the respondents. 1. This Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:- *(i) The Hon'ble Tribunal may be pleased to set aside the order dated 25.11.2016 (Annexure No A-1).* *(ii) The Hon'ble Tribunal may be pleased to direct the respondent No 3 to condone the shortfall period of 05 months and 27 days in service to grant service pension.* *(iii) Any other appropriate order or direction which this Hon'ble Tribunal may deem just and proper in the nature and circumstances of the case including cost of the litigation.* 2. Brief facts of the case are that the applicant was enrolled in the army on 09.12.1992 and was discharged from service on 14.12.2008 being undesirable soldier in terms of Rule 13 (3) III (v) of Army Rules, 1954. The applicant has put in 14 years, 05 months and 02 days qualifying service besides 01 year, 07 months and 02 days as non qualifying service. The applicant has approached various agencies for grant of service pension but was denied on the ground that applicant

	has not rendered pensionable service since he was dismissed from service as undesirable soldier. Being aggrieved, applicant had filed M.A. No. 181 of 2018 inre O.A. (Nil) of 2018 in this Tribunal which was heard on 15.05.2019 and was dismissed as withdrawn with liberty to file afresh. The applicant has again filed the present O.A. for condoning shortfall period in service and grant of service pension. 3. Learned counsel for the applicant submitted that as per Office Manual Part IV (Volume-IV), revised Edition 2014 applicant is entitled for condonation of shortfall in service to enable him to earn service pension. Relying upon Hon'ble Apex Court judgment in Civil Appeal No 9389 of 2014, decided on 20.01.2015, ***Union of India & Ors vs Surender Singh Parmar***, learned counsel for the applicant submitted that keeping in view judgment delivered in this case, applicant's shortfall be condoned to make him eligible for earning service pension. 4. On the other hand, learned counsel for the respondents has vehemently opposed submission of learned counsel for the applicant and contended that personal record of applicant, while serving in the army is not tenable as he has committed various offences from time to time and counselling/advice given by his superiors became futile, and after six red ink entries and two black entries, he was discharged from service being undesirable soldier. Learned counsel for the respondents further submitted that applicant is not entitled to service pension in accordance with para 21 (ii) of Pension Regulations for the Army Part-I (2008) which stipulates that '*any period of unauthorized absence unless pay and allowances are admitted for the period of absence shall not qualify for pension or gratuity'.*

5. His further submission is that applicant is not entitled to service pension in terms of para 132 of Pension Regulations for the Army, 1961 (Part-I) and para 47 of Pension Regulations for the Army, 2008 (Part-I). Relying upon judgment rendered on 22.02.2018 by AFT, Circuit Bench, Jabalpur in T.A. No. 269 of 2010, ***Sep/AA Narayan Prasad Chamar vs Union of India & Ors***, learned counsel for the respondents submitted that the Hon'ble Tribunal in symmetrical case has held as under:-

> *"the case of the applicant stands on very weak foundation both on grounds of law as well as equity. An individual who fails to correct himself even after 5-6 chances is giving all indications of not having the requisite orientation or attitude to be a member of disciplined force like the Army."*

6. Learned counsel for the respondents has further relied upon the Hon'ble Apex Court judgment in the case of ***Sep Satgur Singh vs Union of India & Ors*** (Civil Appeal No 1857 of 2018 decided on 02.09.2019) which has held as under:-

> *"the appellant has not given any explanation of his absence from duty on seven occasions and he was imposed punishment of imprisonment for the same, therefore, the order of discharge cannot be said to be unjustified".*

7. Learned counsel for the respondents conceded that though the applicant's shortfall can be condoned in accordance with Govt of India, Ministry of Defence letter dated 14.08.2001, but since the applicant was locally discharged from service being undesirable soldier in accordance with Ministry of Defence Policy Letter dated 28.12.1988 and provisions contained therein have been followed, i.e. conducting a preliminary inquiry and show cause notice before discharge, applicant is not eligible for condonation of shortfall in service. He pleaded the O.A. to be

dismissed.

8. We have perused the records and find that applicant was awarded six red ink entries and two black ink entries and inflicted following punishments for negligence on his part prior to discharge from service:-

Offence under Army Act, 1950	Date of punishment	Punishment Awarded	Period of absence (days)
39 (b)	30 Mar 2000	14 days imprisonment in military custody.	18
39 (a)	28 Mar 2002	Two months RI in military custody.	59
39 (a)	17 Jun 2004	28 days imprisonment in military custody and 14 days pay fine.	160
39 (a)	12 Mar 2005	28 days imprisonment in military custody and 14 days pay fine	153
39 (a)	14 Feb 2006	28 days imprisonment in military custody and 14 days pay fine.	90
39 (a)	24 Jul 2008	21 days imprisonment in military custody.	56

Besides the above, two black ink entries were also awarded as under:-

39 (b)	14 Oct 2003	14 days pay fine	30
39 (b)	08 Mar 2007	14 days pay fine	11

9. From the above, we may observe that during the period of about eight years, the applicant had earned eight bad entries on account of absent without leave and intoxication, red as well as black. It also clearly appears that even after earning requisite number of red ink entries, the applicant was given good number of opportunities to improve and instead taking action to discharge him immediately, good amount of leniency was shown by the respondents. Further, it appears from the above, that apart from the entries, his conduct had consistently become indisciplined. Therefore, in these circumstances he was served with a show cause notice prior to discharge in accordance with policy

letter dated 28.12.1988, and thereafter administrative action was taken against applicant to discharge him from service.

10. We further notice that while issuing show cause notice dated 17.10.2008 by Commandant, Command Hospital, Chandimandir (Western Command), it was communicated as under:-

> *"After each violation and trial by the competent authority, you were advised by the CO and the Company Commander not to repeat the offence in future. The number of subsequent violation of the provisions of the Army Act, 1950 in spite of the assurance at the time of summary trial shows that you have become a habitual offender. On a number of other occasions you have been found to have gone out of the unit line without proper out pass, consumed alcohol while detailed on duty in patient area or even found in intoxicated state. Despite having been given enough advice and punishment you continue violate the disciplinary code of the Army Act, 1950 with impunity. It is setting a bad example for other soldiers. In view of the above, please show cause as to why you should not be discharged from service as undesirable soldier under the provisions of Army Rule 13 (3) (iii) (v) and Army HQ letter No A/1321/150/AG/PS-2 (c) dated 28 Dec 1988. Your reply should reach the undersigned by 03 Nov 2008".*

11. After receipt of reply to show cause notice, he was discharged from service being undesirable soldier in terms of policy letter dated 28.12.1988 and no injustice seems to have been done to applicant. Further, para 21 (ii) of Pension Regulations for the Army Part-I (2008) stipulates that '*any period of unauthorized absence, unless pay and allowances are admitted for the period of absence, shall not qualify for pension or gratuity'.* Nothing has been brought on record to show that pay and allowances for the absence period have been admitted to applicant.

12. We find that the applicant, who has six 'red ink entries' and two 'black ink entries' for his misconduct i.e. unauthorised absence of leave and intoxication, falling under the category of 'habitual offender', was discharged from service by resorting to the provisions contained in Rule

	13 (3) (iii) (v) of Army Rules, 1954. In our opinion, considering the totality of circumstances, his discharge from service is fully justified and since no pay and allowances for the absence period were admitted, we see no reason to grant condonation of shortfall in service for earning service pension. 13. Generally the Courts are liberal for providing relief to service personnel with regard to pensionary matters but in the instant case applicant being a habitual offender and drunkard deserve no sympathy as he was frequently punished on account of absent without leave and intoxication, though counselled by his Commanding Officer time and again. 14. The O.A. lacks merit and is accordingly **dismissed**. 15. No order as to costs. 16. Pending applications, if any, are disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 174 of 2019

Ex Nk Raj Bahadur Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri P.K. Shukla, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents. Original Application is **dismissed**. For order, see our judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 480 of 2017

Devender Kumar Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri S.S. Rajawat, Ld. Counsel for the applicant and Dr. Chet Narain Singh, Ld. Counsel for the respondents. Original Application is **allowed**. For order, see our judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB