

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

O.A. No 319 of 2015

Sanjay Kumar Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Virat Anand Singh, Ld. Counsel for the applicant and Ms. Deepti P Bajpai, Ld. Counsel for the respondents are present.</p> <p>List on 01.09.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 128 of 2020

Ex Sub Maj (RT) Ran Bahadur Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Yashpal Singh, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on 01.09.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 330 of 2020

Ex Hav Gajendra Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Virat Anand Singh, Shri Pankaj Kumar Shukla and Shri Ashish Kumar Singh, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on 02.09.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p>

UKT/-

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

O.A. No 356 of 2020

Ex Sep Dhani Ram By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Parijaat Belaura, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>On the request of learned counsel for the applicant, two weeks and no more time is granted to file rejoinder affidavit.</p> <p>List on 03.09.2021 for final hearing.</p> <p style="display:flex; justify-content:space-between;">(Vice Admiral Abhay Raghunath Karve) Member (A)(Justice Umesh Chandra Srivastava) Member (J)</p> <p>UKT/-</p>

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

O.A. No 460 of 2020

Ex Sgt Rahul Prakash
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri VP Pandey and Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri RC Shukla, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on 03.09.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 617 of 2020

Ex Sgt Rajesh Kumar Tiwari
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Keshav Sharma, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents are present.</p> <p>List on 03.09.2021 for final hearing.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 618 of 2020

Smt Prema Kumari Wife of Hony Sub Ram Datt Mishra 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
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri MC Shukla, Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondents are present.</p> <p>On the request of learned counsel for the respondents, two weeks and no more time is granted to file counter affidavit. Rejoinder affidavit, if any, may be filed within next two weeks.</p> <p>List on 10.08.2021 for final hearing.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 692 of 2020

Satish Chand
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Moh AU Ahmed and Shri Satish Chandra , Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Learned counsel for the applicant has not filed rejoinder affidavit inspite of availing several opportunities. His opportunity to file rejoinder affidavit is closed.</p> <p style="text-align: center;">List on 03.09.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 25 of 2021

Smt Vimla Devi, W/o Late Ex Sep Gambhir 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
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Ashok Kumar, Ld. Counsel for the applicant and Shri RKS Chauhan, Ld. Counsel for the respondents are present.</p> <p>Counter affidavit filed by learned counsel for the respondents is taken on record. Learned counsel for the applicant submitted that he has not received copy of counter affidavit. Respondents are therefore directed to furnish a copy to learned counsel for the applicant within a week. Learned counsel for the applicant is directed to provide his E-mail ID to learned counsel for the respondents today itself.</p> <p>Rejoinder affidavit, if any, may be filed within next two weeks.</p> <p>List on 03.09.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 208 of 2014

Pravind Kumar Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri Asheesh Agnohotri, Ld. Counsel for the respondents are present.</p> <p>Office is directed to show name of Shri DK Pandey as learned counsel for the respondents in place of Shri Asheesh Agnihotri.</p> <p>List on 06.09.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 200 of 2016 with M.A. No 42 of 2021

Indra Tiwari wife of Ram Murty Tiwari (Deceased) & Others 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
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Rajendra Yadav, Ld. Counsel for the applicant and Dr. Chet Narayan Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;"><u>M.A. No 42 of 2021</u></p> <p>Heard learned counsel for both the parties.</p> <p>By means of this application, applicant wants to incorporate relief of disability pension in place of existing relief. Learned counsel for the respondents has no objection.</p> <p>Amendment application is allowed.</p> <p>Let amendments be incorporated within a week after serving copy of amended pleadings to the Counsel of respondents who may file supplementary counter affidavit within three weeks.</p> <p>List on 20.08.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 3 of 2017

Ram Bahadur Pal By Legal Practitioner for the Applicant	Applicant
Versus	
Union of India & Others By Legal Practitioner for Respondents	Respondents

Notes of the Registry	Orders of the Tribunal		
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri RK Dwivedi, Ld. Counsel for the applicant and Dr. Ashish Asthana, Shri Shailendra Kumar Singh and Dr. Chet Narayan Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on 06.09.2021 for final hearing.</p> <table border="0" style="width: 100%;"><tr><td style="width: 50%; text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</td><td style="width: 50%; text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</td></tr></table> <p>UKT/-</p>	(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)
(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)		

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

O.A. No 167 of 2017

Dilip Kumar Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri SG Singh, Ld. Counsel for the applicant and Shri Bipin Kumar Singh, Ld. Counsel for the respondents are present.</p> <p>List on 06.09.2021 for final hearing.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 258 of 2017

Akil Ahmed Ansari
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri VP Pandey, Ld. Counsel for the applicant and Shri RC Shukla, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on 07.09.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>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.</p> <p>List on 27.08.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 412 of 2017

Yuva Raj Thapa

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri KK Misra, Ld. Counsel for the applicant and Ms. Appoli Srivastava, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on 07.09.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>UKT/-</p>

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

O.A. No 429 of 2017

Pramod Kumar By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Vinay Pandey, Ld. Counsel for the applicant and Shri Rajiv Pandey, Ld. Counsel for the respondents are present.</p> <p>List on 07.09.2021 for final hearing.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 63 of 2018

Vijaypal Singh

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri KK Misra, Ld. Counsel for the applicant and Shri DK Pandey, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the applicant submitted that applicant has died on 04.05.2021. He further submitted that substitution application is ready with him and he will get the same filed by coming Monday.</p> <p>List on 23.07.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align:center">On the case being taken up for hearing Shri BB Tripathi and Shri RS Kalkal, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p style="text-align:center">List on 08.09.2021 for final hearing.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 318 of 2020

Smt Sarla Devi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri VK Mishra, Ld. Counsel for the applicant and Shri RC Shukla, Ld. Counsel for the respondents.</p> <p>2. This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 whereby the applicant has claimed the following reliefs:-</p> <p style="padding-left: 40px;">(a). <i>Issuing/ passing of an order or direction in the nature certiorari quashing the order dated 21.11.2017 (letter No. 1677/Gen/322/SP/Pen-1 (M) passed by Lt Col Senior Records Officer in the interest of justice.</i></p> <p style="padding-left: 40px;">(b). <i>Issuing/ passing order or direction in the nature of mandamus commanding the opposite parties to allow the family pension and other economical relief to save the applicant and her children in the interest of justice i.e. from 31.01.2013.</i></p> <p style="padding-left: 40px;">(c). <i>Issue any other order or direction which this Hon'ble Tribunal may deem just and proper in the circumstances of the case be also passed in favour of the applicant.</i></p> <p>3. The undisputed factual matrix on record is that husband of the applicant was enrolled in the Indian Army on 27.11.1986 as Gunner (Safaiwala). He was awarded four red ink entries for overstaying of leave (OSL) for total 4 years and 307 days and discharged from service on 30.11.1995 on the ground of voluntary resignation under Army Rule 13 (3) of 1954. Husband of the applicant filed Civil Misc. Petition No 25039/2008 at Allahabad High which was transferred to this Tribunal and renumbered as T.A. No 626 of 2010. By means of this T.A. husband of the applicant had prayed for his</p>

reinstatement in service or to pay him service pension including DA and arrears of pension which was dismissed vide order dated 31.01.2013 of this Tribunal.

4. Smt Sarla Devi, wife of the soldier filed petition dated 13.11.2017 at Army Headquarters to reinstate her husband in service or to grant him pension. Her request was rejected by the respondents vide order dated 21.11.2017 stating that her husband was discharged from service on his own request before fulfilling the terms and conditions of engagement. As per para 132 of Pension Regulations for the Army 1961, Part-1 and Para 47 of Pension Regulation for the Army 2008, Part-1, minimum qualifying service required for grant of service pension is 15 years, therefore, your husband can neither be re-instated in service nor he can be granted pension.

5. Being aggrieved by the decision of respondents, wife of the soldier has preferred the instant O.A. with prayer to quash the order dated 21.11.2017 issued by the respondents and to grant her family pension.

6. On perusal of record it transpires that husband of the applicant was discharged from service on his own request as he was not satisfied with his trade. Out of 09 years and 03 days service, he was absent without leave for 4 years and 307 days. His petition to re-instate him in service or to grant him pension has already been rejected by the Tribunal as well as by the respondents.

7. As per rule position husband of the applicant cannot be granted service pension as he has not rendered 15 years of service. Since husband of the applicant is alive, the applicant is not eligible for any relief. Moreover, the matter has already been decided by this Tribunal in earlier O.A. hence instant O.A. is not maintainable and deserves to be dismissed on merits.

8. In the result, O.A. is dismissed.

9. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

UKT/-

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

O.A. No. 245 of 2018

Dharmendra Singh Tomar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R Chandra, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the respondents, list on 05.07.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 315 of 2018

Anand Kumar Yadav

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri SK Chaturvedi and Shri Vinay Pandey, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present.</p> <p>Pleadings are complete and the case is ripe for hearing.</p> <p>List on 09.09.2021 for hearing.</p> <p>On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 483 of 2018

Smt Hemlata Devi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Lohitaksha Shukla, learned counsel for the applicant and Ms Amrita Chakraborty, learned counsel for the respondents are present.</p> <p>During the course of hearing, Ms Amrita Chakraborty, learned counsel for the respondents submitted that respondents have no objection in granting family pension to the applicant. She further submitted that respondents have already written a letter dated 09.03.2021 to the applicant asking her to submit certain documents through Zila Sainik Board for processing. She further submitted that as soon as the required documents are received, the matter would be immediately processed for grant of family pension.</p> <p>In view of the above, applicant is directed to submit required documents through concerned Zila Sainik Board within two weeks. A set of aforesaid documents may be furnished directly to the respondents also. On receipt of documents the respondents shall immediately process the same and shall take all efforts to get family pension issued as early as possible preferably within four weeks.</p> <p style="text-align: center;">List on 27.08.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 606 of 2018

Shri Raghuvveer Singh Tomar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri KK Misra, learned counsel for the applicant and Shri GS Sikarwar, learned counsel for the respondents are present.</p> <p>Pleadings are complete and the case is ripe for hearing.</p> <p>List on 10.09.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 89 of 2019

Narayan Bahdur Khatri Chhetri
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Girish Tiwari and Shri Vijay Kumar Pandey, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents are present.</p> <p>Pleadings are complete and the case is ripe for hearing.</p> <p>List on 10.09.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 94 of 2019

Smt Durgawati Devi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri VP Pandey, learned counsel for the applicant and Shri Asheesh Agnihotri, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the respondents, list on 06.07.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 247 of 2019

Ex Nk Kirpal

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri KK Misra, learned counsel for the applicant and Shri Rajiv Pandey, learned counsel for the respondents are present.</p> <p>Judgment (allowed).</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 331 of 2019

Smt Prabhawati

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Virat Anand Singh and Shri Ravi Prakash Tripathi, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents are present.</p> <p>Judgment.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 348 of 2019

Ex Cadet Rajeev RU

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri SSL Srivastava, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents are present.</p> <p>Pleadings are complete and the case is ripe for hearing.</p> <p>List on 13.09.2021 for hearing.</p> <p>On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 389 of 2019

Ex Rect Feroz Khan

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
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Ashish Kumar Singh, learned counsel for the respondents is present.</p> <p>List on 14.07.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 469 of 2019

Ex Rect Chandrabhan Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Yashpal Singh, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p>List on 13.09.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 485 of 2019

Lt Col Soban Singh Danu (Retd)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: justify;">On the case being taken up for hearing Mrs Patil Usha Tanaji, Shri Gyanendra Kumar Sharma and Shri Dharam Raj Singh, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p style="text-align: center;">Judgment.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>rathore</p>

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

O.A. (A) No. 500 of 2017

Vijai Mishra

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col AK Srivastava (Retd), Shri Dharam Raj Singh and Shri Shyam Sunder Bajpai, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the applicant, list on 11.08.2021 for hearing.</p> <p>On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION No. 210 of 2020

Friday, this the 2nd day of July, 2021

“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”

**Subhash Singh (No. JC 642914H) Ex. Sub./Maj. (SKT), Son of Bir
bahadur Singh, resident of Village – Indrapur, Post Office
Thamhanpura, District – Ballia (Uttar Pradesh) – 277506.**

..... Applicant

**Ld. Counsel for the : Shri Yashpal Singh, Advocate.
Applicant**

Versus

- 1. Union of India, through Secretary, Ministry of Defence, South Block, New Delhi.**
- 2. Additional Director General Personnel Services, Adjutant General’s Branch, Integrated Headquarters of Ministry of Defence (Army), PIN-900256, C/O 56 APO.**
- 3. Appellate Committee of First Appeal through its Chairman, Adjutant General’s Branch, Integrated Headquarters of Ministry of Defence (Army), PIN-900256, C/o APO.**
- 4. Second Appellate Committee on Pension through its Chairman, Adjutant General’s Branch, Integrated Headquarters of Ministry of Defence (Army), PIN-900256, C/o APO.**
- 5. Release Medical Board held at 167 Military Hospital, PIN-901216, C/o 56 APO through its President.**
- 6. Officer-in-Charge Records, ASC Records (South), PIN-900493, C/o 56 APO.**
- 7. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Prayagraj-211014.**

..... Respondents

**Ld. Counsel for the : Shri Ashish Kumar Singh,
Respondents. Central Govt. Counsel**

ORDER

“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs.

- (a) Issue/pass an order setting aside the recommendation of the Release Medical Board dated 26.10.2018 to the extent of holding the disability of the applicant as not connected with service; letter/order dated 26.02.2019 and letter/order dated 05.08.2019 rejecting the claim of the applicant for disability pension (Annexure No. 1, 2 and 3 to the Original Application), after summoning the relevant original records.***
- (b) Issue/pass an order directing the respondents to consider case of the applicant for grant of disability pension and provide the same from the date of discharge including arrears and interest; and also the benefit of rounding off and other consequential service benefits of ex-serviceman.***
- (c) Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.***
- (d) Allow this Original Application with cost.***

2. Briefly stated, applicant was enrolled in the Indian Army on 28.08.1986 and was discharged on 31.03.2019 in Low Medical Category on fulfilling the conditions of his enrolment under Rule 13 (3) Item III (i) (a) of the Army Rules, 1954. At the time of discharge from service, the Release Medical Board (RMB) held at 167 Military Hospital on 26.10.2019 assessed his disabilities (i) 'DIABETES MELLITUS TYPE – 2 (E-11)' @ 20% for life, (ii) 'PRIMARY HYPERTENSION (I-10)' @30% for life and (iii) 'NON CRITICALCAD (I-67.1)' @30% for life, composite @60% for life and opined the disabilities to be neither attributable to nor aggravated (NANA) by service. The applicant's claim for grant of disability pension was rejected vide letter dated 26.02.2019. The applicant preferred First Appeal which too was rejected vide letter dated

05.08.2019. The applicant also preferred Second Appeal but of no avail. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant pleaded that at the time of enrolment, the applicant was found mentally and physically fit for service in the Army and there is no note in the service documents that he was suffering from any disease at the time of enrolment in Army. The diseases of the applicant were contacted during the service, hence it is attributable to and aggravated by Military Service. He pleaded that various Benches of Armed Forces Tribunal have granted disability pension in similar cases, as such the applicant be granted disability pension as well as arrears thereof, as applicant is also entitled to disability pension and its rounding off to 75%.

4. On the other hand, Ld. Counsel for the respondents contended that composite disabilities of the applicant @60% for life have been regarded as NANA by the RMB, hence applicant is not entitled to disability pension. He pleaded for dismissal of the Original Application.

5. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents. We have also gone through the Release Medical Board proceedings as well as the records and we find that the questions which need to be answered are of two folds:-

- (a) Whether the disabilities of the applicant are attributable to or aggravated by Military Service?**
- (b) Whether the applicant is entitled for the benefit of rounding off the disability pension?**

6. The law on attributability of a disability has already been settled by the Hon'ble Supreme Court in the case of *Dharamvir Singh Versus*

Union of India & Others, reported in (2013) 7 Supreme Court Cases 316.

In this case the Apex Court took note of the provisions of the Pensions Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers to sum up the legal position emerging from the same in the following words.

"29.1. Disability pension to be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable to or aggravated by military service to be determined under the Entitlement Rules for Casualty Pensionary Awards, 1982 of Appendix II (Regulation 173).

29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)].

29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9).

29.4. If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service [Rule 14(c)]. [pic]

29.5. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service [Rule 14(b)].

29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons [Rule 14(b)]; and 29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to

Medical Officers (Military Pensions), 2002 - "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."

7. In view of the settled position of law on attributability, we find that the RMB has denied attributability to the applicant only by endorsing that the disabilities 'DIABETES MELLITUS TYPE – 2 (E-11)', 'PRIMARY HYPERTENSION (I-10)' and 'NON CRITICALCAD (I-67.1)' are neither attributable to nor aggravated (NANA) by service on the ground of onset of disability on 17.08.2015 and 27.09.2016 while posted in Peace locations (Gwalior), therefore, applicant is not entitled to disability pension. However, considering the facts and circumstances of the case, we are of the opinion that this reasoning of Release Medical Board for denying disability pension to applicant is not convincing and doesn't reflect the complete truth on the matter. Peace Stations have their own pressure of rigorous military training and associated stress and strain of military service. The applicant was enrolled in Indian Army on 28.08.1986 and the disabilities have started after more than 29 years of Army service i.e. in the year 2015 and 2016 respectively. We are therefore of the considered opinion that the benefit of doubt in these circumstances should be given to the applicant in view of *Dharamvir Singh vs Union of India & Ors (supra)*, and the disabilities of the applicant should be considered as aggravated by military service.

8. The law on the point of rounding off of disability pension is no more RES INTEGRA in view of Hon'ble Supreme Court judgment in the case of *Union of India and Ors vs Ram Avtar & ors (Civil appeal No 418 of 2012 decided on 10th December 2014)*. In this Judgment the Hon'ble Apex Court nodded in disapproval of the policy of the Government of India in granting the benefit of rounding off of

disability pension only to the personnel who have been invalidated out of service and denying the same to the personnel who have retired on attaining the age of superannuation or on completion of their tenure of engagement. The relevant portion of the decision is excerpted below:-

“4. By the present set of appeals, the appellant (s) raise the question, whether or not, an individual, who has retired on attaining the age of superannuation or on completion of his tenure of engagement, if found to be suffering from some disability which is attributable to or aggravated by the military service, is entitled to be granted the benefit of rounding off of disability pension. The appellant(s) herein would contend that, on the basis of Circular No 1(2)/97/D (Pen-C) issued by the Ministry of Defence, Government of India, dated 31.01.2001, the aforesaid benefit is made available only to an Armed Forces Personnel who is invalidated out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.

5. We have heard Learned Counsel for the parties to the lis.

6. We do not see any error in the impugned judgment (s) and order(s) and therefore, all the appeals which pertain to the concept of rounding off of the disability pension are dismissed, with no order as to costs.

7. The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension.

8. This Court grants six weeks' time from today to the appellant(s) to comply with the orders and directions passed by us.”

9. As such, in view of the decision of Hon'ble Supreme Court in the case of *Union of India and Ors vs Ram Avtar & ors (supra)*, we are of the considered view that benefit of rounding off of disability pension @ 60% for life to be rounded off to 75% for life may be extended to the applicant from the date of his discharge.

10. In view of the above, the Original Application No. 210 of 2020 deserves to be allowed, hence allowed. The impugned orders dated

26.02.2019 and 05.08.2019, annexed as Annexure Nos. 2 and 3 of Original Application, are set aside. The disabilities of the applicant are held as aggravated by Army Service. The applicant is entitled to get disability element @60% for life which would be rounded off to 75% from the date of his discharge. The respondents are directed to grant disability element to the applicant @60% for life which would stand rounded off to 75% for life from the date of discharge. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

11. No order as to costs.

**(Vice Admiral Abhay Raghunath Karve)
Srivastava) Member (A)**

**(Justice Umesh Chandra
Member (J)**

Dated : 02 July, 2021

AKD/-

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

Court No. 1

O.A. No. 255 of 2020

Ex Rect Anuj Pratap Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Order pronounced today in the open Court.</p> <p style="text-align: center;">O.A. No. 255 of 2020. Ex Rect Anuj Pratap Singh vs. Union of India and Others is allowed.</p> <p style="text-align: center;">For order, see our judgment passed on separate sheets.</p> <p style="text-align: center;">Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p>
SB	

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No 255 of 2020

Friday, this the 2nd day of July, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

No. 15509831P Ex-Rect Anuj Pratap Singh
S/o Shri Shankar,
R/o Village – Jhakari, Post – Abbrarpur Kot, Tehsil – Aliganj,
District – Etah (UP) – 207247

..... Applicant

Ld. Counsel for the Applicant: Shri Manoj Kumar Awasthi, Advocate

Versus

- 1. Union of India, through Secretary, Ministry of Defence (Army), South Block, New Delhi-110011.**
- 2. Chief of the Army Staff, IHQ of MOD (Army), Army HQ, South Block, New Delhi – 110011**
- 3. The Officer-in-Charge Records, Record Office, Kavachit Corps Abhilekh Armoured Corps Records Pin 900476, C/o 56 APO.**
- 4. PCDA (Pension), Draupadi Ghat, Allahabad.**

..... Respondents

Ld. Counsel for the Respondents : Shri Ashish Kumar Singh,
Central Govt Counsel.

ORDER

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

- “A. To issue/pass an order or directions to set aside/quash the order dated 14.05.2019 passed by respondent no. 3.**
- B. To issue/pass an order or directions to the respondents to re-enroll the applicant in services and grant consequential benefits of notional re-instatement from the date of**

stoppage of disability element of disability pension i.e. from 13.05.2018 along 12% interest on arrear.

- C. To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.
- D. To allow this original application with costs."

2. The brief facts of the case are that the applicant was enrolled in the Indian Army on 28.09.2012 and was invalided out of service on 21.07.2014 (AN) in terms of clause 13 (3), Item IV of Army Rules, 1954 in low medical category having rendered 01 year, 09 months and 18 days of service. The applicant was initially placed in low medical category A3 (T-6) with effect from 20.08.2013 for diagnosis "FRACTURE TRANSVERSE PROCESS LV3 (LT)". Further on subsequent review of medical category, medical authorities opined that *"in view of the sequelae of tuberculosis in the form of residual structure changes and functional deficit in spirometry, the individual will not make a fit soldier. Hence, it is recommended that the individual be invalidated out of service in LMC-P5 as per Army order 150/75"*. The Invaliding Medical Board (IMB) held at Military Hospital, Pune on 24.06.2014 assessed his disability "NEW SMEAR AND CULTURE POSITIVE PULMONARY TUBERCULOSIS (NOW SMEAR NEGATIVE)" @ 100% for two years w.e.f. 22.07.2014 to 23.06.2016 and opined the disability as attributable to military service. Accordingly, applicant was granted service element @ 4275/- per month and disability element @ Rs. 3510/- per month for two years from 22.07.2014 to 23.06.2016 vide PPO dated 17.04.2015. Further Re-Assessment Medical Board of the applicant was held at Military Hospital, Agra Cantt on 13.05.2016 and his disability was assessed @ 100% for two years w.e.f. 13.05.2016 to 12.05.2018. Accordingly,

applicant was granted disability element @ 3510/- per month for two years w.e.f. 13.05.2016 to 12.05.2018 vide PPO dated 08.09.2016. Further Re-Assessment Medical Board of the applicant was held at Military Hospital, Agra Cantt on 13.04.2018 and his disability was assessed @ Nil% for life and Medical Specialist opined that "No further Re-Assessment Medical Board required". Accordingly, disability element of the applicant was discontinued w.e.f. 13.05.2018. The applicant approached Armoured Corps Record vide e-mail dated 04.10.2018 and 20.10.2018 seeking the reasons for discontinuation of his disability element which were suitably replied vide letter dated 11.10.2018 and 03.11.2018 respectively. Thereafter, applicant submitted an application dated 31.12.2018 under RTI 2005 seeking information/documents which were provided to the applicant vide letter dated 22.01.2019. Thereafter, the applicant submitted an appeal dated 11.04.2019 addressed to the Chief of the Army Staff Secretariat for re-instatement into service which was received by Armoured Corps Records vide IHQ of MOD (Army) letter dated 02.05.2019 and applicant was suitably replied vide letter dated 14.05.2019. The applicant has filed the present Original Application to re-instate him in service.

3. Learned Counsel for the applicant pleaded that at the time of enrolment, the applicant was found mentally and physically fit for service in the Army and there is no note in the service documents that he was suffering from any disease at the time of enrolment. The disease of the applicant was contracted during the service, hence it was assessed @ 100% for two years considering it attributable to Military Service by IMB. The applicant was granted service element @ 4275/- per month and disability element @ Rs. 3510/- per month for

two years from 22.07.2014 to 23.06.2016 vide PPO dated 17.04.2015. Further Re-Assessment Medical Board of the applicant was held at Military Hospital, Agra Cantt on 13.05.2016 and his disability was assessed @ 100% for two years w.e.f. 13.05.2016 to 12.05.2018. Accordingly, applicant was granted disability element @ 3510/- per month for two years w.e.f. 13.05.2016 to 12.05.2018 vide PPO dated 08.09.2016. Further Re-Assessment Medical Board of the applicant was held at Military Hospital, Agra Cantt on 13.04.2018 and his disability was assessed @ Nil% for life and Medical Specialist opined that "No further Re-Assessment Medical Board required". Accordingly, disability element of the applicant was discontinued w.e.f. 13.05.2018. The applicant sent representation through e-mail for redressal of his grievance but the same was rejected by the respondents vide order dated 10.07.2018. Thereafter, applicant submitted an application dated 31.11.2018 under RTI 2005 seeking information/documents which were provided to the applicant vide letter dated 22.01.2019. Thereafter, the applicant submitted an appeal dated 11.04.2019 addressed to the Chief of the Army Staff Secretariat for re-instatement into service which was received by Armoured Corps Records vide IHQ of MOD (Army) letter dated 02.05.2019 and applicant's appeal was illegally rejected vide letter dated 14.05.2019 by mentioning that "*There are no such provisions for re-instatement in the Army once discharged from service*".

4. The applicant has drawn attention to Regulation 143 of the Defence Service Regulations, 1987, which reads as under :-

"143. Re-enrolment of Ex-Servicemen Medically Boarded Out.

—

(a) Ex-Servicemen, who are in receipt of disability pension, will not be accepted for re-enrolment in the Army.

(b) Ex-Servicemen, medically boarded out without any disability pension or those whose disability pensions have

been stopped because of their disability having been re-assessed below 20% by the Re-Survey Boards, will be eligible for re-enrolment, either in combatant or non-combatant (enrolled) capacity in the Army, provided they are re-medically boarded and declared fit by the medical authorities. If such an ex-serviceman applied for re-enrolment and claims that he is entirely free from the disability for which he was invalided, he will be medically examined by the Rtg MO and if he considers him fit, the applicant will be advised to apply to officer-in-charge, Records Office concerned, through the recruiting officer for getting himself re-medically boarded. The officer-in-charge, Records office concerned, on receipt of the application, will arrange for his medical examination at a Military Hospital nearest to his place of residence. The individual concerned will have to pay all his expenses, including that on accommodation and journey to and from the place of medical examination.

If the individual is found fit and re-enrolled on regular engagement, he will be enlisted for the full period of combined colour and reserve service, subject to the following conditions:-

(i) If he had not previously completed the minimum period of colour service after which he could be transferred to the reserve, he will rejoin the colours and his previous colour service will count towards the minimum service required for transfer to the reserve.

(ii) If he had previously completed the minimum period of colour service required for transfer to the reserve and is fully trained and suitable in all other respects, he may be re-enrolled, provided a vacancy in the reserve exists, and be immediately transferred to the reserve”.

5. Learned counsel for the applicant also relied upon judgment of AFT (PB) New Delhi in OA No. 32 of 2011 *Recruit Haseen Ali vs. Union of India & Ors*, decided on 21.02.2012 and submitted that applicant's case is squarely covered by this judgment and therefore, applicant be re-instated in service.

6. On the other hand, Ld. Counsel for the respondents submitted that applicant has been paid disability element as per recommendations of Re-Assessment Medical Board (RAMB) upto 12.05.2018 and thereafter disability being assessed as Nil% for life by RAMB held on 13.04.2018, disability element has been stopped w.e.f. 13.05.2018.. Hence, as per Para 135 (e) and 143 of Regulations for the Army 1987 (Revised), applicant is not entitled for re-instatement in service. He pleaded for dismissal of the O.A.

7. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents and perused the record.

8. As per opinion of Re-Assessment Medical Board dated 13.04.2018 applicant's disability has been assessed @ Nil% for life and it has also been opined by the Medical Specialist that 'No further Re-Assessment Medical board is required'. It means the applicant is totally cured and no more suffering from the disease "NEW SMEAR AND CULTURE POSITIVE PULMONARY TUBERCULOSIS (NOW SMEAR NEGATIVE)", that is the reason disability element of the applicant has been discontinued w.e.f. 13.05.2018.

9. The plea of the respondents regarding reinstatement saying that there is no such provision is not tenable. As per Para 143 of Defence Service Regulations, 1987, applicant is entitled to reinstatement.

10. Consequently, Original Application is allowed. The respondents are directed to reinstate the applicant back in service in the same rank in which he was invalided out of service on 21.07.2014. However, applicant shall not be entitled for any back wages or other benefits. The respondents are further directed to comply with the order within four months from the date of production of a certified copy of this order. Delay shall invite interest @ 8% per annum till actual payment.

11. No order as to costs.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated: July, 2021

SB

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
O.A. No. 331 of 2019

Smt. Prabhawati 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
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri Virat Anand Singh, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents.</p> <p style="text-align: center;">Original Application is allowed.</p> <p style="text-align: center;">For order, see our judgment passed on separate sheets.</p> <p style="text-align: center;">Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No 331 of 2019

Friday, this the 2nd day of July, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)

Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Smt. Prabhawati

Widow of No. 8003192L Late Naik Nanku Singh

R/o Vill – Atanpur, Ramgal, Kathan

District – Allahabad

..... Applicant

Ld. Counsel for the Applicant: Shri Virat Anand Singh, Advocate

Versus

1. **Union of India and others, through Secretary, Ministry of Defence (Army), South Block, New Delhi – 110011.**
 2. **Chief of the Army Staff, Integrated HQ of MoD (Army), DHQ PO, New Delhi – 110011.**
 3. **Officer Incharge, PCDA (P), Draupadi Ghat, Allahabad (UP).**
- Respondents**

**Ld. Counsel for the Respondents : Shri Amit Jaiswal,
Central Govt Counsel.**

ORDER

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 being aggrieved with the stoppage of pension consequent of conviction and sentences passed for the following reliefs:-

- “(i) To direct the respondents to restore the revise normal rate of family pension to the applicant with immediate effect.
- (ii) To direct the respondents to pay arrear of pension from 25/02/2010 till actual restoration with interest of 10%.

(iii) To pass orders which their lordships may deem fit and proper in the existing facts and circumstances of the case.

(iv) Allow this application with cost of 1,00,000/-.”

2. The factual matrix of the case is that after death of applicant's husband on 11.09.2008, applicant was in receipt of revised rate of family pension. In the year 2009, applicant alongwith her son was charged under Section 302 r/w 34 IPC for alleged dowry death of her daughter-in-law. Resultantly, she was sent to imprisonment on 04.04.2009 and her pension was stopped in the month of Feb. 2010. The applicant approached the Hon'ble High Court of Allahabad for grant of bail and she was given bail on 06.01.2014 though her son Mr. Rajesh Kumar Singh was not granted bail. Thereafter, applicant visited PCDA (P) Allahabad on 11.04.2014 and submitted an application for restoration of her family pension. The PCDA (P), Allahabad replied through letter dated 11.04.2014 that she being not acquitted from criminal offence, her pension cannot be restored. Thereafter, applicant tried her best but her pension has not been restored. Being aggrieved, the present Original Application has been filed for restoration of pension.

3. Learned counsel for the applicant submitted that vide Para 82 (b) of Pension Regulations for the Army, 1961 (Part-1), which states that if a pensioner is convicted and sentenced for a criminal offence by the Court and then is released by the Higher Court the pension withheld shall be restored. Accordingly, family pension of the applicant should be restored from the date of bail.

4. Per contra, learned counsel for the respondents submits that the applicant has merely been enlarged on bail, she has not been acquitted of the charges in pending Criminal Appeal and by this reckoning, she is not entitled for resumption of pension in view of Para 73.1 of Defence Pension Payment Instructions-2013. Therefore, pension withheld shall be restored only after applicant's acquittal.

5. We have heard learned counsel for the parties and perused the record.

6. Learned counsel for the applicant invited our attention to the judgment of the Armed Forces Tribunal, (Regional Bench) Lucknow in *O.A. No. 26 of 2015, Satyapal Singh vs. Union of India & Others*, decided on 21.07.2016 and Armed Forces Tribunal (Regional Bench), Chandigarh judgment in *O.A. No.159 of 2013, Chandra Singh vs. Union of India*, decided on 10.09.2013. The relevant portion of the judgment

of AFT, Chandigarh in the case of Chandra Singh (Supra) is reproduced below for ready reference :-

“It is again surprising that in spite of letter and legal notice from the petitioner, the respondents, instead of restoring the pension of the petitioner, have tried to justify the stoppage of pension on the ground that the outcome of the exercise at the end of the respondents would be the suspension of the pension of the petitioner as he has yet not been acquitted by the Court. We deplore and depreciate this attitude of the respondents. Instead of doing justice to the petitioner they are adamant to add insult to the injury.

Learned counsel for the respondents has taken shelter of the provisions of Para 82 (d) of the Pension Regulations for the Army, 1961 (Part II) to argue that as per this provision if a pensioner is convicted and sentenced for a criminal offence by the Court below and then is acquitted by the Higher Court the pension withheld shall be restored. We may mention here that this Para 82(d) has been submitted by the respondents as Annexure R-3 but the whole of the regulation 82 has not been reproduced for some ulterior motive. Clauses (a) and (b) of the said regulation 82 which have been concealed by the respondents are very material and we reproduce them as under:

“82 (a) If a pensioner is sentenced to imprisonment for a criminal offence, his pension shall be suspended from the date of his imprisonment and the case will be reported to the Controller of Defence Accounts (Pension), Allahabad for the orders of the competent authority. In case, where a pensioner is kept in police or jail custody as an under-trial prisoner and is eventually sentenced to a term of imprisonment for a criminal offence, the suspension of pension shall take effect from the date of imprisonment only.

82(b) Restoration of Pension withheld – A pension withheld in whole or in part may be restored in full or in part by the competent authority in consultation with the State Government or Administration concerned in political cases and with the Controller of Defence Accounts (Pensions) and the civil authorities, if necessary, in other cases. In the case of a pensioner undergoing imprisonment, any action under this Regulation shall only be taken on his application after release but in no case, shall pension be sanctioned for the period of imprisonment in jail for a serious crime.

Learned counsel for the respondents tried to argue that it is only upon the acquittal of the petitioner that his pension can be restored.

Although the petition is entitled to be allowed simply on the ground that neither show cause notice was issued to the petitioner nor order in writing was passed by the competent authority for the suspension of the pension of the petitioner yet a conjoint reading of Para 82(a) and 82(b) makes it abundantly clear that the pension during the period of imprisonment will not be payable. However, the pension may be restored after the release of the pensioner from custody. The word used in the Regulation is ‘Release’ and not ‘Acquittal’. These are two entirely different words having different

meanings. One cannot be equated with other. If the word 'Release' is equated with the word Acquittal' then it would mean that if the hearing in the appeal does not take place for 20 years, the petitioner will not get the pension for 20 years till his acquittal. That cannot be the intention of the framers of the Regulations. Word 'Release' has consciously been used in Para 82(b) which means if a person is released on bail, his pension should be restored. Para 82(d) deals with a different situation which we need not elaborate in this case.

In view of the entire discussion we are satisfied that the pension of the petitioner has wrongly been withheld and is liable to be restored.

Looking at the gross negligence and stubborn attitude of the respondents we also intend to impose cost.

The petition is allowed with cost of Rs. 10,000/- to be paid by the respondents No. 1 to 3. The action stopping the pension of the petitioner is set aside. The pension of the petitioner be restored with effect from 01.09.2009. The petitioner will be paid the arrears with interest at the rate of 8% per annum with effect from 01.09.2009 till the arrears are paid.

The respondents are at liberty to take further action, if any, as per the Rules."

7. Keeping in view the aforesaid observations made by the Armed Forces Tribunal, Regional Bench, Chandigarh, the question with regard to payment of pension during pendency of Criminal Appeal seems to be no more res integra. The Tribunal has decided that the word 'Release' used in Para 82 (b) of the Regulations has been consciously used which means if a person is released on any ground whether on bail or after due acquittal in a criminal case, his pension should be restored. The Bench further held that Para 82(d) deals with a different situation which we need not to elaborate in this case. The interpretation given by the Armed Forces Tribunal Chandigarh does not seem to have been modified or annulled by any higher forum and therefore, it has the binding effect. In the circumstances, we have no option except to allow the present Application. Admittedly, Applicant has been granted bail in a pending Criminal Appeal and in pursuance of the order passed by the Hon'ble High Court, she has been released from jail. Since, she is not incarcerated in jail at the moment and

released on bail, she seems to be entitled for restoration of pension, in view of law settled by the Chandigarh Bench. Otherwise also, the law is bad since pension has been stopped without serving show cause notice or without providing opportunity of hearing to the applicant.

8. Accordingly, the O.A is allowed. Any decision or order passed with regard to stoppage of pension is set aside. The respondents shall restore the payment of family pension to the applicant with effect from the date she has been granted bail/released from jail in pursuance of the order of bail dated 06.01.2014 granted by the Hon'ble High Court, Allahabad.

9. Let necessary exercise be done in compliance with this order by the respondents within a period of three months from today.

10. No order as to costs.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated: July, 2021

SB

Court No. 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 312 of 2020

Friday, this the 2nd day of July, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

**JC-194207-L, Sub (Hony Lt) Gajraj Singh S/O Late Pratap Singh,
R/O – MIG-II-79 Tatyta Tope Nagar, Phase III. Kanpur (U.P.) – 208022.**

.... Applicant

**Ld. Counsel for the: Shri Parijaat Belaura , Advocate.
Applicant**

Versus

- 1. Union of India, through Secretary, Ministry of Defence, New Delhi-110011.**
- 2. Addl Dte Gen of Personnel Service Adjutant General's Branch Integrated Headquarters, Ministry of Defence (Army), L-1 Block, Church Road, New Delhi.**
- 3. Office in Charge, Records The Mech Inf Regiment, PIN-900476, C/O 56 APO.**
- 4. Principal Controller Defence Account (Pension), Draupadi Ghat, Allahabad (U.P.) 211014.**

... Respondents

**Ld. Counsel for the: Shri Arun Kumar Sahu, Advocate
Respondents.**

ORDER (Oral)

1. The instant 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:-

“(a) To grant disability pension @ 50% and round of the same to 70% giving the benefit of Govt. of India, Min. of Def. Letter dated 31.01.2001, w.e.f. date of discharge of applicant i.e. 01.04.2005.

(b) To pay arrear of disability pension along with 12% interest from the date of his discharge i.e. 01.04.2004 till it is actually paid.

(c) Any other suitable relief this Hon'ble Court deems fit and proper may also be granted.

2. Brief facts of the case giving rise to this application are that applicant was enrolled in the Indian Army on 25.03.1977 and after having served for more than 27 years, he was discharged from service in low medical category 'S1H1A1P2(P)E1' on 31.03.2005. Prior to discharge from service, applicant was brought before Release Medical Board (RMB) on 21.01.2005 which assessed the applicant to be suffering from (I) 'AORTIC ROOT ENLARGEMENT (106)' @ 30% for life aggravated by military service and (II) 'COMPLEX PARTIAL SEIZURES (G40.2)' @ 20% for life neither attributable to nor aggravated by military service (NANA) (composite assessment for both the disabilities @ 50% for life). Disability pension claim preferred by applicant was rejected vide order dated 05.07.2005. It appears that applicant has filed the instant O.A. without preferring any appeal after rejection of disability pension claim. This O.A. has been filed for grant of disability pension claim.

3. Learned counsel for the applicant submitted that the applicant was enrolled in the Army in medically and physically fit condition and there is no note in his service documents with regard to suffering from any disease prior to enrolment, therefore, any disability suffered by the applicant after joining the service should be considered as attributable to or aggravated by military service and the applicant should be entitled to disability pension. Learned counsel for the applicant further submitted that disability pension claim of the applicant has been rejected by the pension sanctioning authority without giving any reason. Further submission of learned counsel for the applicant is that though the first disability i.e. 'AORTIC ROOT ENLARGEMENT (106)' has been assessed as aggravated by military service but PCDA (P), Allahabad has rejected

it in a cavalier manner without mentioning any reason. He also pleaded that the second disability 'COMPLEX PARTIAL SEIZURES (G40.2)' has been regarded as NANA by the RMB but in terms of Hon'ble Apex Court judgment in the case of *Dharamvir Singh Vs. Union of India and Ors*, (2013) 7 SCC 213 applicant's aforesaid disability should also be treated as aggravated by military service. He pleaded for disability pension to be granted to applicant.

4. On the other hand, learned counsel for the respondents submitted that since RMB has declared the applicant's disability as NANA, he is not entitled to disability pension. His further submission is that the competent authority has rightly rejected applicant's disability pension claim on the ground of disability being constitutional in nature and not related to military service, therefore, O.A. deserves to be dismissed.

5. Heard learned counsel for the parties and perused the material placed on record. We have also gone through the RMB and the rejection order of disability pension claim. The question before us is simple and straight i.e. – are the disabilities of applicant attributable to or aggravated by military service?

6. The law on attributability of a disability has already been well settled by the Hon'ble Supreme Court in the case of *Dharamvir Singh Vs. Union of India and Ors*, (2013) 7 SCC 213. In this case the Apex Court took note of the provisions of the Pensions Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers to sum up the legal position emerging from the same in the following words:-

"29.1. Disability pension to be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable to or aggravated by military service to be

determined under the Entitlement Rules for Casualty Pensionary Awards, 1982 of Appendix II (Regulation 173).

29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)].

29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9).

29.4. If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service [Rule 14(c)]. [pic]

29.5. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service [Rule 14(b)].

29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is

required to state the reasons [Rule 14(b)]; and 29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions), 2002 - "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."

7. In view of the settled position of law on attributability/aggravation, we find that the RMB has denied attributability/aggravation to the applicant only by endorsing that the disability of applicant arose in peace area and the said disability having no close time association with stress/strain of service in Fd/HAA/CI Ops. We feel that such a discrimination between peace posting and a posting to Field/High Altitude Area/Counter Insurgency Operations amounts to saying that there is no stress and strain of military service in peace area, which is not the absolute truth. It is trite law that any disability not recorded at the time of recruitment must be presumed to have been caused subsequently, and, unless proved to the contrary to be a consequences of military service. The benefit of doubt, therefore, shall be rightly extended in favour of the applicant. In the instant case, since the applicant was found to be suffering from disability when he had put in more than 26 years of service and aggravated by military service. We are, therefore, of the considered opinion that the benefit of doubt should be given to the applicant as per the Hon'ble Supreme Court judgment of *Dharamvir Singh* (supra) and the disability of the applicant should be considered as aggravated by military service.

8. In view of the above the applicant is held entitled to 50% disability element for life which shall stand rounded off to 75% disability element for life with effect from the date of his discharge in terms of *Union of India vs. Ram Avtar & Others*, (Civil Appeal No. 418 of 2012 decided on 10 December, 2014. Applicant is held entitled to rounding off of disability element w.e.f. his date of discharge but due

to law of limitations as held in Hon'ble Apex Court judgment in the case of *Shiv Dass vs Union of India & Ors, reported in 2007 (3) SLR 445, applicant is entitled to arrears of rounding off of disability element three years prior to filing of this O.A. This O.A. was filed on 04.01.2019.*

9. As a result of foregoing discussion, the O.A. is allowed. The impugned order is set aside. The respondents are directed to pay 75% disability element alongwith arrears within four months from today.

10. Default will invite interest @ 8% p.a.

11. No order as to costs.

12. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (J)

(Justice Umesh Chandra Srivastava)
Member (J)

rspal/-

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

M.A. No. 217 of 2021 Inre : M.A. No. 382 of 2020 with M.A. No. 396 of 2020
Inre : T.A. No. 2012

Ex. Gnr. Yogendra Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p><u>M.A. No. 382 of 2020 with M.A. No. 396 of 2020</u></p> <p>Heard Shri Pushpendra Kumar Dhaka, Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents.</p> <p>Applicant had filed Original Application No. 184 of 2011 in the Principal Bench of Armed Forces Tribunal for the grant of pensionary benefits which was subsequently transferred to this Bench and numbered as T.A. No. 24 of 2012. The T.A. was listed for final hearing on 25.04.2019 and was adjourned to 10.05.2019 on the request of Ld. Counsel for the applicant subject to payment of Rs.2,000/- as cost. On 10.05.2019 none appeared on behalf of the applicant nor the cost was paid, with the result T.A. was dismissed for want of prosecution. Thereafter, a recall application was filed along with an application for condonation of delay which was also dismissed on 27.11.2020. Applicant filed a Writ Petition being Service Single No. 962 of 2021 in the Lucknow Bench of Hon'ble Allahabad High Court for issue of a writ in the nature of certiorari which was allowed and order dated 27.11.2020 of this Tribunal passed in M.A. No. 382 of 2020 with M.A. No. 396 of 2020 Inre : T.A. No. 24 of 2012 was quashed on payment of Rs.5,000/- as cost. This cost as well cost imposed on 25.04.2019 by this Tribunal has been paid by the applicant.</p> <p>The submission of Ld. Counsel for the applicant is that he is ready to argue the case on any date fixed by this Tribunal, therefore, T.A. be restored to its number after setting aside the order of dismissal.</p> <p>Considering the aforesaid and also keeping in view the order passed by Lucknow Bench of Hon'ble Allahabad High Court, we feel it expedient in the interest of justice to decide the T.A. on merit. Accordingly, delay condonation application as well as recall application are allowed subject to payment of Rs.1,000/- as cost payable within a week to Armed Forces Tribunal Bar Association, Lucknow.</p> <p>List on 17.08.2021 for final hearing.</p>

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
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. 210 of 2020 with M.A. No. 209 of 2020

Ex.Sub. Maj. Subhash Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents.</p> <p style="text-align: center;">The Original Application has been filed with delay of 03 months and 20 days.</p> <p style="text-align: center;">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.</p> <p style="text-align: center;">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.</p> <p style="text-align: center;">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.</p> <p style="text-align: center;">Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p><u>O.A. No. 210 of 2020</u></p> <p style="text-align: center;">Heard Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Original Application is allowed.</p> <p style="text-align: center;">For order, see our Judgment passed on separate sheets.</p> <p style="text-align: center;">Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 310 of 2021 Inre : O.A. No. (Nil) of 2021

Hony. Sub./Clk. Patil Ganapati
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Shri Pushpendra Mishra, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri R. Chandra, Ld. Counsel for the applicant and Shri Pushpendra Mishra, Ld. Counsel for the respondents.</p> <p>The present Original Application has been filed for the grant of pension to the rank of Subedar with delay of 07 years, 07 months and 13 days.</p> <p>Submission of learned counsel for the applicant in this regard is that bar of limitation is not applicable in pensionary matters. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of delay condonation application.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer.</p> <p>Upon hearing submissions of Ld. Counsel of both sides and considering the facts and circumstances of the case we observe that bar of limitation is not applicable in pensionary matters. We further observe that cause shown for condonation of delay, if any, is sufficient. Delay condonation application is, therefore, allowed.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 320 of 2021</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Issue notice to the respondents.</p> <p>Shri Pushpendra Mishra, Advocate has accepted notice on behalf of respondents and he seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 26.08.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 13.09.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 311 of 2021 Inre : O.A. No. (Nil) of 2021

Ex. Nb. Sub. More Arun
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Shri Manu Kumar Srivastava, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri R. Chandra, Ld. Counsel for the applicant and Shri Manu Kumar Srivastava, Ld. Counsel for the respondents.</p> <p>The present Original Application has been filed for the grant of pension to the rank of Subedar with delay of 08 years, 03 months and 13 days.</p> <p>Submission of learned counsel for the applicant in this regard is that bar of limitation is not applicable in pensionary matters. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of delay condonation application.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer.</p> <p>Upon hearing submissions of Ld. Counsel of both sides and considering the facts and circumstances of the case we observe that bar of limitation is not applicable in pensionary matters. We further observe that cause shown for condonation of delay, if any, is sufficient. Delay condonation application is, therefore, allowed.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 316 of 2021</u></p> <p>It is a fit case for adjudication. Admit. Issue notice to the respondents.</p> <p>Shri Manu Kumar Srivastava, Advocate has accepted notice on behalf of respondents and he seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 26.08.2021 for exchange of pleadings. List the matter before Tribunal on 13.09.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 294 of 2021

Ex. Nk. Ram Suresh Yadav By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align:center">Shri Somesh Singh, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align:center">Heard Mohd. Zafar Khan, Ld. Counsel for the applicant and Shri Somesh Singh, Ld. Counsel for the respondents.</p> <p style="text-align:center">Admit.</p> <p style="text-align:center">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.</p> <p style="text-align:center">List the matter before Registrar on 26.08.2021 for exchange of pleadings.</p> <p style="text-align:center">List the matter before Tribunal on 13.09.2021.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align:center">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 296 of 2021

Ex. Spr. Rashpal Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align:justify">Shri Rajiv Narayan Pandey, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align:justify">Heard Shri Ashok Singh and Shri Vikas Singh Chauhan, Ld. Counsel for the applicant and Shri Rajiv Narayan Pandey, Ld. Counsel for the respondents.</p> <p style="text-align:justify">The innocuous prayer of the applicant is that to direct the respondents to decide the applicant's Statutory Appeal dated 14.10.2020, which is pending with the respondents.</p> <p style="text-align:justify">With the consent of Ld. Counsel for the parties, we hereby dispose of the Original Application finally with the direction to the respondents to decide the applicant's Statutory Appeal dated 14.10.2020, annexed as Annexure No.A-1 of Original Application, by a speaking and reasoned order in accordance with law, if not already decided, within a period of four months from the date of receipt of copy of this order and communicate the decision to the applicant accordingly.</p> <p style="text-align:justify">Let a copy of this order be provided to the learned Counsel for the parties.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 297 of 2021

Ex. Sub. Kedar Datt
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Shri R.C. Shukla, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri R. Chandra, Ld. Counsel for the applicant and Shri R.C. Shukla, Ld. Counsel for the respondents.</p> <p>Admit.</p> <p>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.</p> <p>List the matter before Registrar on 27.08.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 14.09.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
O.A. No. 298 of 2021 along with M.A. No. 313 of 2021

Sep. Joseph John Menezes
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Shri Arun Kumar Sahu, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align: center;">Heard Shri R. Chandra, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents.</p> <p><u>M.A. No. 313 of 2021</u></p> <p style="text-align: center;">The Original Application has been filed with delay of 10 years and 09 months.</p> <p style="text-align: center;">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.</p> <p style="text-align: center;">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.</p> <p style="text-align: center;">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.</p> <p style="text-align: center;">Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p><u>O.A. No. 298 of 2021</u></p> <p style="text-align: center;">It is a fit case for adjudication.</p> <p style="text-align: center;">Admit.</p> <p style="text-align: center;">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.</p> <p style="text-align: center;">List the matter before Registrar on 27.08.2021 for exchange of pleadings.</p> <p style="text-align: center;">List the matter before Tribunal on 14.09.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 299 of 2021 along with M.A. No. 314 of 2021

Rect. Surendra Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Dr. Shailendra Sharma Atal, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri Vinay Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents.</p> <p><u>M.A. No. 314 of 2021</u></p> <p>The Original Application has been filed with delay of 39 years and 07 months.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p><u>O.A. No. 299 of 2021</u></p> <p>It is a fit case for adjudication. Admit.</p> <p>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.</p> <p>List the matter before Registrar on 27.08.2021 for exchange of pleadings. List the matter before Tribunal on 14.09.2021.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 13 of 2021 Inre : O.A. No. 88 of 2021

Ex. Sep. Sant Ram By Legal Practitioner for the Applicant	Applicant
Versus	
Union of India & Others By Legal Practitioner for Respondents	Respondents

Notes of the Registry	Orders of the Tribunal		
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Shri Anurag Mishra, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align: center;">On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Shri Anurag Mishra, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Ld. Counsel for the respondents seeks and is allowed four weeks time to seek instructions.</p> <p style="text-align: center;">List on 16.08.2021.</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</td><td style="width: 50%; text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</td></tr></table> <p style="text-align: left; margin-top: 10px;">AKD/-</p>	(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)
(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)		

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

Ex. A. No. 19 of 2021 Inre : O.A. No. 553 of 2018

Ex. Sep. Ram Otar Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Shri Anurag Mishra, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align: center;">On the case being taken up for hearing Shri R.K. Sharma, Ld. Counsel for the applicant. and Shri Anurag Mishra, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Ld. Counsel for the respondents seeks and is allowed four weeks time to seek instructions.</p> <p style="text-align: center;">List on 16.08.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 307 of 2021 with M.A. No. 308 of 2021 Inre : O.A. No. 244 of 2018

Union of India & Others	Applicants
By Legal Practitioner for the Applicants	
Versus	
Ex,. Nb. Sub. Surendra Singh	Respondent
By Legal Practitioner for Respondent	

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Ms. Anju Singh, Ld. Counsel for the applicants – Union of India & Others.</p> <p style="text-align: center;">This is an application for condonation of delay in filing application for grant of leave to appeal in O.A. No. 244 of 2018. Admittedly, the application is time barred and has been moved beyond statutory period. The Tribunal lacks jurisdiction to condone the delay under the Armed Forces Tribunal Act, 2007. It is well settled proposition of law that the Tribunal is not empowered to condone delay in moving application for leave to appeal. Accordingly application for condonation of delay in moving application for grant of leave to appeal is not maintainable and is rejected.</p> <p style="text-align: center;">In consequence thereof application for leave to appeal is also rejected.</p> <p style="text-align: center;"> (Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J) </p> <p>AKD/-</p>

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

Ex. A. No. 36 of 2018 Inre : O.A. No. 64 of 2011

Ex. Rect. Vijay Kumar By Legal Practitioner for the Applicant	Applicant
Versus	
Union of India & Others By Legal Practitioner for Respondents	Respondents

Notes of the Registry	Orders of the Tribunal		
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri S.K. Singh, Ld. Counsel for the applicant and Dr. Chet Narain Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">As prayed by Ld. Counsel of both sides, two weeks time is granted to file Calculation Sheet in compliance of order dated 24.03.2021.</p> <p style="text-align: center;">List on 11.08.2021.</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</td><td style="width: 50%; text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</td></tr></table> <p>AKD/-</p>	(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)
(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)		

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

Ex. A. No. 66 of 2018 Inre : O.A. No. 467 of 2017

Ex. Hav. (Hony. Nb. Sub.) Mithilesh 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
	<p><u>02.07.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Parijaat Belaura, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents are present.</p> <p>Ms. Anju Singh, Ld. Counsel for the respondents submitted that in compliance of order passed by this Tribunal P.P.O. has been issued. She further submitted to grant two weeks time to bring the P.P.O. on record, which is allowed.</p> <p>List on 19.07.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p style="text-align: left;">AKD/-</p>

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

M.A. No. 149 of 2021 Inre : O.A. No. (Nil) of 2021

Ex. Rect. Prashant Kumar Prikshit
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri Pankaj Kumar Shukla and Shri Rahul Chaurasiya, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Objection against delay condonation application filed by the respondents and reply thereto filed by the applicant are taken on record.</p> <p style="text-align: center;">The present Original Application has been filed against the dismissal order passed by the respondents with delay of three years, 04 months and 20 days. In regard to delay, the submission of Ld. Counsel for the applicant is that applicant's absence from duty for which he has been dismissed from service was not deliberate, but due to an F.I.R. lodged against him in concerned Police Station of his native place. He further submitted that applicant was mentally disturbed due to F.I.R. lodged against him, therefore, Original Application could not be filed within time. He further submitted that applicant has been acquitted in the Criminal Case filed against him.</p> <p style="text-align: center;">Ld. Counsel for the respondents has vehemently opposed the aforesaid submissions and submitted that no sufficient explanation has been offered for the long delay caused in filing Original Application.</p> <p style="text-align: center;">Upon hearing submissions of Ld. Counsel of both sides and considering the facts and circumstances of the case, we are of the view that cause shown for the delay is sufficient. Accordingly, delay condonation application is allowed.</p> <p style="text-align: center;">Let Original Application be registered.</p> <p><u>O.A. No. 617 of 2021</u></p> <p style="text-align: center;">It is a fit case for adjudication.</p> <p style="text-align: center;">Admit.</p> <p style="text-align: center;">Issue notice to the respondents.</p> <p style="text-align: center;">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.</p> <p style="text-align: center;">List the matter before Registrar on 27.08.2021 for exchange of pleadings.</p> <p style="text-align: center;">List the matter before Tribunal on 15.09.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 313 of 2021 along with M.A. No. 322 of 2021

Brig. Anand Kumar Tewari (Retd.)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Heard Shri Shailendra Kumar Singh, Ld. Counsel for the applicant is present.</p> <p style="text-align: center;">Shri Amit Jaiswal, Advocate appeared on behalf of the respondents and filed Memo of Appearance which is taken on record. He also submitted that respondents are wishing to file detailed objection against delay condonation application as well as maintainability of Original Application, a reasonable time be given for the same.</p> <p style="text-align: center;">Let objection against delay condonation application as well as maintainability of Original Application be filed within three weeks.</p> <p style="text-align: center;">List on 10.08.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 312 of 2021

Lt. Col. Mukesh Baboo
 By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
 By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Satendra Kumar Singh, Ld. Counsel for the applicant is present.</p> <p>Shri Ashish Agnihotri, Advocate appeared on behalf of the respondents and filed Memo of Appearance which is taken on record. He also submitted to grant him time to file objection/Counter Affidavit.</p> <p>Let objection/Counter Affidavit be filed within three weeks.</p> <p>List on 29.07.2021.</p> <p style="text-align: center;"> (Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) </p> <p><small>AKD/-</small></p>

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

O.A. No. 94 of 2018

Smt. Sundari Devi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri V.P. Pandey, Ld. Counsel for the applicant and Shri R.C. Shukla, Ld. Counsel for the respondents are present.</p> <p>During the course of hearing Ld. Counsel for the applicant submitted that two weeks time be given to him to file copies of Judgments on account of which he is claiming parity for the grant of relief in his favour.</p> <p>Let copies of Judgments be filed within two weeks, as prayed.</p> <p>List on 28.07.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>