

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

M.A. No. 242 of 2021 Inre : O.A. No. (Nil) of 2021

Ex. Hav. Narendra 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>07.04.2021</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 Shyam Singh, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri Parijaat Belaura, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents.</p> <p>The Original Application has been filed with delay of 11 years, 07 months and 23 days.</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 of delay.</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>Let Original Application be registered.</p> <p><u>O.A. No. 244 of 2021</u></p> <p>It is a fit case for adjudication.</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 05.07.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 20.07.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 244 of 2021 Inre : O.A. No. (Nil) of 2021

Ex. Hav. Narendra 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>07.04.2021</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 Ramesh Chandra Shukla, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri Parijaat Belaura, Ld. Counsel for the applicant and Shri Ramesh Chandra Shukla, Ld. Counsel for the respondents.</p> <p>The Original Application has been filed with delay of 13 years, 08 months and 28 days.</p> <p>The submission of Ld. Counsel for the applicant is that delay in filing Original Application is not deliberate, but on account of facts stated in affidavit filed in support of application.</p> <p>Ld. Counsel for the respondents has opposed on the ground that explanation offered for condonation of delay is not satisfactory.</p> <p>We have gone through affidavit filed in support of application for condonation of delay and find that grounds stated therein are genuine and sufficient.</p> <p>As such, delay in filing application is condoned. Application stands decided accordingly.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 243 of 2021</u></p> <p>It is a fit case for adjudication.</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 05.07.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 20.07.2021.</p> <table style="width: 100%; margin-top: 20px;"><tr><td style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</td><td style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</td></tr></table> <p style="margin-top: 20px;">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)

M.A. No. 243 of 2021 Inre : O.A. No. (Nil) of 2021

Ex. Hav. Sarvesh 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>07.04.2021</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 Amit Jaiswal, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align: center;">Heard Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents.</p> <p style="text-align: center;">The Original Application has been filed with delay of 05 months and 05 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 style="text-align: center;">Let Original Application be registered.</p> <p><u>O.A. No. 242 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 05.07.2021 for exchange of pleadings.</p> <p style="text-align: center;">List the matter before Tribunal on 20.07.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

Diary No. 07 of 2020 Inre : O.A. No. (Nil) of 2020

Smt. Ramwati W/o Hari Darshan 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>07.04.2021</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 Om Prakash Kushwaha and Shri Ram Sanehi Yadav, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Ld. Counsel for the applicant prays for and is granted one week time to remove the defects as pointed out by the registry.</p> <p style="text-align: center;">List on 19.04.2021.</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
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 18 of 2018 Inre : T.A. No. 133 of 2010

Yogendra Singh Tomar
By Legal Practitioner for the Applicant

Applicant

Versus

Govt. of India through Secretary, Defence, Sena Bhawan & Another
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.04.2021</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 none appears on behalf of the applicant.</p> <p style="text-align: center;">Shri Namit Sharma, Ld. Counsel for the respondents is present.</p> <p style="text-align: center;">Ld. Counsel for the respondents submitted that four weeks further time be granted to make compliance of order which is allowed on payment of cost of Rs.10,000/- payable to the applicant.</p> <p style="text-align: center;">Respondents are further directed to make entire payment of cost imposed upon them by the next date fixed.</p> <p style="text-align: center;">List on 12.05.2021.</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)

Ex. A. No. 137 of 2018 Inre : T.A. No. 170 of 2011

Lekh Raj 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>07.04.2021</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, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present.</p> <p>Shri Yogesh Kesarwani, Ld. Counsel appearing on behalf of respondents submitted that with regard to grant of interest to the applicant Government sanction has already been obtained and Corrigendum P.P.O. is likely to be issued. Thus he submitted that reasonable time be further granted to file affidavit of compliance.</p> <p>Let affidavit of compliance be filed within three weeks.</p> <p>List on 24.05.2021.</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)

Ex. A. No. 34 of 2019 Inre : O.A. No. 299 of 2017

Rajesh Kumar Awasthi
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>07.04.2021</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 Shri Namit Sharma, Ld. Counsel for the respondents are present.</p> <p>Shri Namit Sharma, Ld. Counsel appearing on behalf of the respondents submitted that four weeks further time be granted to make compliance of order which is allowed.</p> <p>Let affidavit of compliance be filed within four weeks.</p> <p>List on 12.05.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 76 of 2019 Inre : O.A. (A) No. 311 of 2017

Smt. Alka Mishra W/o Ex. Nk. Vimal Kumar 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>07.04.2021</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 and Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant and Shri G.S. Sikarwar, Ld. Counsel for the respondents are present.</p> <p>Shri G.S. Sikarwar, Ld. Counsel for the respondents submitted that Government sanction for implementation of order in this case has been issued on 05.04.2021. He further submitted that a reasonable time be granted to file affidavit of compliance.</p> <p>Let affidavit of compliance be filed within four weeks.</p> <p>List on 18.05.2021.</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
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ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 106 of 2019 Inre : O.A. No. 275 of 2017

Smt. Seeta Devi [W/o Ex. Cfn. (Late) Ram Bahadur 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>07.04.2021</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 Sunil Sharma, Ld. Counsel for the respondent Nos. 1 to 3 and Shri Vinay Pandey, Ld. Counsel for the respondent Nos. 4 and 5 are present.</p> <p>It is submitted by the Ld. Counsel for the applicant that documents required to be submitted by the applicant, which are in English and running in 40 pages have been submitted at the Office of District Sainik Kalyan Board two days before.</p> <p>Respondents are directed to go through the documents submitted by the applicant and get compliance of order done within four weeks from the date of receipt of documents failing which they shall be liable to pay cost of Rs.15,000/- payable to applicant.</p> <p>List on 06.07.2021.</p> <p>(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)

M.A. No. 67 of 2021 Inre :O.A. No. (Nil) of 2021

Ex. Sep./MT Devinder Singh By Legal Practitioner for the Applicant	Versus	Applicant Respondents
Union of India & Others By Legal Practitioner for Respondents		

Notes of the Registry	Orders of the Tribunal
<p>07.04.2021 <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 Akash Dikshit, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents are present.</p> <p>As prayed by the Ld. Counsel for the respondents and, as a last chance, a week time is granted to file objection against delay condonation application.</p> <p style="text-align: center;">List on 28.04.2021.</p> <p style="display: flex; justify-content: space-between; margin-top: 20px;"> (Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J) </p> <p style="font-size: small; margin-top: 10px;">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. 95 of 2019

Kalawati 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>07.04.2021</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 Jay Prakash Singh and Shri Manish Vikram Singh Chauhan, Ld. Counsel for the applicant and Shri R.C. Shukla, Ld. Counsel for the respondents are present.</p> <p>Supplementary affidavit filed by the respondents is taken on record.</p> <p>We have gone through the contents of the Supplementary Affidavit and we find that the grievance raised in Original Application has not only been redressed, but P.P.O. has also been issued to the applicant.</p> <p>In view of this, Original Application has rendered infructuous and is therefore dismissed as such.</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. 421 of 2019

Ex. Lance Nk. Dharendra 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>07.04.2021</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 Manoj Kumar Singh, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>As prayed by the Ld. Counsel for the applicant and, as a last chance, a week further time is granted to file reply to the objection filed against maintainable of Original Application.</p> <p>List on 19.04.2021.</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. 339 of 2020

Ex. Rect. Narendra 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>07.04.2021</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 R. Chandra, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Original Application is dismissed.</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>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. 576 of 2020

Nk. (Dvr.) Ashwani Kumar 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>07.04.2021</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 K.K. Misra, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>As prayed by the Ld. Counsel for the applicant and, as a last chance, four weeks further time is granted to file Rejoinder Affidavit.</p> <p>List on 20.07.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>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. 577 of 2020

Ex. Sep. (Reservist) Amrit Lal
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>07.04.2021</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 Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p>Ld. Counsel for the respondents prays for and is granted two weeks further time to file Counter Affidavit.</p> <p>List on 11.05.2021.</p> <p>(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. 578 of 2020

Nk. Santosh 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>07.04.2021</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 Pankaj Kumar Shukla and Shri Virat Anand Singh, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Ld. Counsel for the respondents prays for and is granted two weeks further time to file Counter Affidavit.</p> <p style="text-align: center;">List on 13.05.2021.</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. 712 of 2020

Ex. Sub. Maj. (Hony. Lt.) 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>07.04.2021</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 Shri Rajiv Pandey, Ld. Counsel for the respondents are present.</p> <p>As prayed by the Ld. Counsel for the respondents three weeks further time is granted to file Counter Affidavit.</p> <p>List on 17.05.2021.</p> <p>(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. 745 of 2020

Ex. Sub. Babban Singh 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>07.04.2021</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 V.P. Pandey, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</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> <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)

O.A. No. 5 of 2021

Ex. Sub. Vishnu Dutta 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>07.04.2021</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 Pankaj Kumar Shukla and Shri Dheerendra Kumar Agnihotri, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">As prayed by the Ld. Counsel for the respondents two weeks further time is granted to file Counter Affidavit.</p> <p style="text-align: center;">List on 07.05.2021.</p> <table style="width: 100%; margin-top: 20px;"><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="margin-top: 20px;">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)

O.A. No. 576 of 2018

Akhilesh Kumar Tripathi
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>07.04.2021</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 Bhanu Pratap Singh Chauhan, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents.</p> <p>2. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by means of which applicant has prayed to step up his pay and allowances w.e.f. 01.01.2006 to 30.09.2006 and accordingly, pay enhanced service pension from 01.10.2016.</p> <p>3. Learned counsel for the applicant submitted that applicant was enrolled in the Army on 12.09.1986. The applicant was promoted as Havildar on 17.08.2003, Naib Subedar on 01.01.2007 and Subedar on 01.04.2013. On promotion to Subedar, basic pay of the applicant was fixed @ Rs. 13,320/- per month whereas Subedar Ajit Singh Bhati (JC-761199P) who was also promoted as Subedar on 01.04.2013, his basic pay was fixed @ Rs. 15,140/- per month. The applicant while serving in FRI Unit 452 had taken up a case with EME Records for stepping up basic pay but it was rejected with some observations. The unit of the applicant also submitted an application of the applicant to PAO (OR) EME Secunderabad on 10.06.2016 stating that service pension of the applicant has been shown @ Rs. 13,105/- per month whereas the basic pension of JC-761199P Subedar Ajit Singh Bhati who is junior to applicant has been shown @ Rs. 15,140/- per month in comparative statement, which requires rationalisation but nothing was done. Being aggrieved, the applicant has filed the present Original Application for stepping up of his pay and allowances and service pension.</p> <p>4. Learned Counsel for the respondents submitted that as per policy, PAO (OR) EME has correctly adopted the 6th CPC orders issued on 11.10.2008, to be implemented w.e.f. 01.01.2006 and accordingly arrears of pay were paid to the applicant. It is further submitted that the fixation of pay was done as per</p>

SAI 1/S/2008 and pay of the applicant was correctly fixed @ Rs. 8100/- with grade pay of Rs. 2800/- w.e.f. 01.01.2006. However, as per statement of PAO (OR) EME it is submitted that pay in respect of JC-761199 Ex Sub Ajit Singh Bhati has also been reduced as he had exercised his option on 23.08.2011 and Part II Order published on 23.01.2012. Hence, fixation was duly done and that is the reason for recovery of the pay and allowances at the time of final discharge. Final settlement of account of each soldier is done at the time of discharge, and at this time, all pay and allowances drawn during entire service are checked and adjusted correctly by Pay Account Office (PAO).

5. Learned counsel for the respondents further submitted that since the applicant was promoted to the rank of Naib Subedar on 07.03.2006, the said provisions of SAI 1/S/2008 were applicable to him. However, the applicant has not exercised his option within stipulated time, even after extending the date upto 30.06.2011. Since option of the applicant has not been received within stipulated time, his pay on promotion to the rank of Naib Subedar has been fixed correctly with reference to para 8 (c) of SAI 1/S/2008. Since, option for 6th CPC of the applicant was exercised vide FRI Unit 452 Part II Order No 0/0018/001/2016 dated 10.03.2016, which is beyond the cut off date i.e. 30.06.2011, his case does not meet the merit for consideration and question of anomaly does not arise. The anomaly in pay when compared to his junior is due to non exercising of the option within the cut off date i.e. 30.06.2011. He submitted that the application may be dismissed due to its being devoid of any merit and lacking substance.

6. Having heard learned counsel for the parties and perusing the relevant documents available on record, we find that despite the facts that the respondents were fully aware of such an anomaly in fixation of pay by 6th and 7th Pay Commissions, no efforts were made to remove it knowing well that juniors will get more salary than seniors in the same rank. It does not appeal to the common sense of a reasonable man that pay commissions which have been envisaged/formulated to benefit the employees would prejudice the employees by allowing the juniors to get more basic pay than seniors.

7. It is cardinal principle of law, as held by the Hon'ble Supreme Court in number of cases, that no junior in the same post can be granted more salary than his seniors. In Civil Appeal Nos. 65-67(Arising out of S.L.P.(C) Nos 12522-12514 of 2007 decided on 09.01.2009 titled as **Er. Gurcharan Singh Grewal and Anr. V. Punjab State Electricity Board and Ors.** 2009 (2) SLJ 271 (SC), The Apex court in para 13 has observed:-

“13 Something may be said with regard to Mr. Chhabra's submissions about the difference in increment in the scales which the appellant No. 1 and Shri Shori are placed, but the

same is still contrary to the settled principle of law that a senior cannot be paid lesser salary than his junior. In such circumstances, even if, there was a difference in the incremental benefits in the scale given to the appellant No. 1 and the scale given to Shri Shori, such anomaly should not have been allowed to continue and ought to have been rectified so that the pay of the appellant No. 1 was also stepped to that of Shri Shori, as appears to have been done in the case of the appellant No. 2.”

8. In another case titled as **Commissioner and Secretary to Government of Haryana and Ors. v. Ram Sarup Ganda and Ors.** 2006 (12) SCALE 440, The Apex Court has observed in its para No. 15:

“15 In the result, all the appeals are partly allowed. The appellants shall revise the pay scales of the respondents. In case of any anomaly, if the employees who, on fixation of ACP scales, are in receipt of lesser salary than their juniors in the same cadre/posts, then their salary shall be stepped up accordingly.....”

9. In another decision dated 25th October, 2010 rendered in W.P.(C) No. 2884/2010 titled as **UOI and Anr. v. Chandra Veer Jeriya**, the Delhi High Court while dealing with the same issue has observed in para 8 as follows :

“8 We agree with the findings arrived at by the Tribunal in view of the law laid down by the Supreme court in the decision reported as 1997 (3) SCC 176 UOI and Ors vs. P. Jagdish and Ors. It may be highlighted that the respondents did not claim any pay parity with officers junior to them but in the combatized cadre till as long the officers remained in their respective streams. They claimed parity when the two streams merged in the same reservoir i.e. when they reached the post of Administrative Officer/Section Officer and that too from the date persons junior to them, but from the combatized cadre, became Administrative Officer/Section Officer. The anomaly which then arose was that persons junior in the combined seniority list of Administrative Officer/Section Officer started receiving a higher wage. With reference to FR-22, in P. Jagdish’s case (supra) the Supreme Court held that Article 39(d) of the Constitution was the guiding factor in interpreting FR-22, The principle of stepping up contained in the fundamental rules comes into play when a junior person in the same posts starts receiving salary more than his senior on the same post.....”

10. In P. Jagdish case (supra), the Apex Court has observed that the principle of Stepping up prevents violation of the principle of “equal pay for equal work”. Applying the same principle of law here, a junior in the same posts cannot be allowed to draw salary higher than the seniors because that would be against the ethos of Article 39 (d) of the Constitution which envisages the principle of “equal pay for equal work”. Hence granting of stepping up is the only way out to remove the said anomaly, which permits juniors to draw higher salary in the same rank than their seniors. The only way to remove is the stepping up of salary of seniors. The rules and provisions which allow the said anomaly to exist and prohibit the stepping up are violative of the principles of natural justice and equity; are contrary to Article 39(d) of the Constitution which envisages “equal pay for equal work” and contrary to the principles of law laid down by the Apex court in its pronouncements.

11. In view of above, the respondents are hereby directed to upgrade the basic pay of the applicant from the date his juniors were given the higher basic pay in the same rank with all retiral dues. The Respondents are directed to comply the order within a period of three months from the date of receipt of certified copy of the order. Default will invite interest @ 8% per annum till actual payment.

12. Misc. Applications, if any, pending for disposal shall be treated to have been disposed of.

13. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

O.A. No. 97 of 2019

Dhag Bahadur Gurung		Applicant
By Legal Practitioner for the Applicant		
	Versus	
Union of India & Others		Respondents
By Legal Practitioner for Respondents		

Notes of the Registry	Orders of the Tribunal
	<p><u>07.04.2021</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;">Heard Shri K.K.S. Bisht and Shri V.P. Pandey, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p style="text-align: justify;">Original Application is allowed.</p> <p style="text-align: justify;">For order, see our judgment passed on separate sheets.</p> <p style="text-align: justify;">Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="display: flex; justify-content: space-between;">(Vice Admiral Abhay Raghunath Karve) Member (A)(Justice Umesh Chandra Srivastava) Member (J)</p> <p>SB</p>

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

O.A. No. 252 of 2019

Ex Ris Hidayat Ullah
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>07.04.2021</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 is present.</p> <p>As prayed, applicant is permitted to carry out necessary amendment in the pleadings within three days.</p> <p>It is informed by Shri Namit Sharma on behalf of Shri Kaushik Chatterjee, learned counsel for the respondents that Shri Chatterjee is hospitalised as he has been tested Covid positive.</p> <p>List this case on 17.05.2021 by which date counter affidavit may be filed.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

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

O.A. No. 434 of 2019

Gurinder 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>07.04.2021</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 none appeared on behalf of the applicant nor any mention has been made to adjourn the case.</p> <p style="text-align: center;">Shri Yogesh Kesarwani, learned counsel for the respondents is present and he submitted that despite counter affidavit has been filed and time being taken by the applicant to file rejoinder affidavit but no rejoinder affidavit has been filed.</p> <p style="text-align: center;">The absence of applicant as well as not filing of rejoinder affidavit shows that applicant is not interested in prosecution of the case.</p> <p style="text-align: center;">Accordingly, O.A. is dismissed for non prosecution.</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>SB</p>

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

O.A. No. 499 of 2019

Ex Nk (TS) Sita Ram Dubey
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>07.04.2021</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 Col A.K. Srivastava (Retd) and Shri Dharam Raj Singh, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents.</p> <p style="text-align: center;">At the very outset, learned counsel for the applicant submitted that applicant may be permitted to withdraw O.A. with liberty to file a fresh.</p> <p style="text-align: center;">Learned counsel for the respondents strongly objected and submitted that applicant cannot seek permission to withdraw the case in a situation when counter affidavit has been filed.</p> <p style="text-align: center;">After hearing submission of learned counsel for the respondents and considering the facts and circumstances of the case, we find that prayer regarding withdrawal of application may be conceded.</p> <p style="text-align: center;">Accordingly, Original Application is dismissed as withdrawn with liberty to file afresh.</p> <p style="text-align: center;"> (Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) </p> <p>SB</p>

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

O.A. No. 300 of 2020

Ex Sub R A Khan
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>07.04.2021</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 Shri Ashish Kumar Singh, learned counsel for the respondents are present.</p> <p>List this case on 27.05.2021 alongwith matters of AGIF.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

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

O.A. No. 606 of 2020

Hav Shравan 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>07.04.2021</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 Krishna Lal, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents.</p> <p>2. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by means of which applicant has prayed to step up his pay and allowances w.e.f. 01.01.2006 and quash/ set aside the order dated 17.05.2019 passed by the respondents.</p> <p>3. Learned counsel for the applicant submitted that applicant was enrolled in the Army on 02.12.2005. The applicant was promoted as Naik on 28.04.2010 and Havildar on 03.04.2012. The pay of applicant was erroneously fixed at Rs. 6250/- per month after implementation of recommendations of 6th CPC while the minimum pay as recommended by the 6th CPC is Rs. Basic – 6460/- + Grade Pay – Rs. 2000/-, total 8460/-. The applicant submitted a representation to EME Records/PAO (OR) EME dated 01.05.2019 stating that basic pay of his junior No. 14682816F Havildar/Clerk Brijesh Singh has been fixed @ Rs. 6460/- per month w.e.f. 01.01.2006 whereas his basic pay is fixed @ Rs. 6250/- per month which is wrong and prayed for stepping up of his basic pay to Rs. 6460/-. The PAO (OR) EME, Secunderabad vide their letter dated 17.05.2019 declined to stepping up pay of the applicant at par with Havildar Brijesh Singh. Being aggrieved, the applicant has filed the present Original Application for stepping up of his pay and allowances and service pension.</p> <p>4. Learned Counsel for the respondents submitted that as per policy, PAO (OR) EME has correctly adopted the 6th CPC orders issued on 11.10.2008, to be implemented w.e.f. 01.01.2006. As per comments of PAO (OR) EME, direct entry level pay is applicable to those individuals who are enrolled on or after 01.01.2006. As per para 13 of SAI 1/S/2008, the entry level pay of direct</p>

recruits to a particular rank carrying a specific grade pay will be fixed on or after 01.01.2006. Whereas, para 9 of SAI is applicable for those personnel who had enrolled prior to 01.01.2006 and para 13 is not applicable for those who are already in service as on 31.12.2005 (i.e. enrolled before 01.01.2006). Since the applicant was enrolled in the Army on 02.12.2005, his pay has been fixed in terms of para 9 of SAI 1/S/2008. Therefore, basic pay has been fixed correctly as Rs. 6250/-. It is further submitted by PAO (OR) EME that stepping up of pay with respect to junior No. 14682816F Havildar Brijesh Singh is not acceptable in audit as pay of ibid junior is fixed as per the Hon'ble Court verdict. Implementation of the Court order are specific in nature for each case. Hence, stepping up of pay not considered. He submitted that the application may be dismissed due to its being devoid of any merit and lacking substance.

5. Having heard learned counsel for the parties and perusing the relevant documents available on record, we find that despite the facts that the respondents were fully aware of such an anomaly in fixation of pay by 6th Central Pay Commission, no efforts were made to remove it knowing well that juniors will get more salary than seniors in the same rank. It does not appeal to the common sense of a reasonable man that pay commissions which have been envisaged/formulated to benefit the employees would prejudice the employees by allowing the juniors to get more basic pay than seniors.

6. It is cardinal principle of law, as held by the Hon'ble Supreme Court in number of cases, that no junior in the same post can be granted more salary than his seniors. In Civil Appeal Nos. 65-67(Arising out of S.L.P.(C) Nos 12522-12514 of 2007 decided on 09.01.2009 titled as **Er. Gurcharan Singh Grewal and Anr. V. Punjab State Electricity Board and Ors.** 2009 (2) SLJ 271 (SC), The Apex court in para 13 has observed:-

“13 Something may be said with regard to Mr. Chhabra's submissions about the difference in increment in the scales which the appellant No. 1 and Shri Shori are placed, but the same is still contrary to the settled principle of law that a senior cannot be paid lesser salary than his junior. In such circumstances, even if, there was a difference in the incremental benefits in the scale given to the appellant No. 1 and the scale given to Shri Shori, such anomaly should not have been allowed to continue and ought to have been rectified so that the pay of the appellant No. 1 was also stepped to that of Shri Shori, as appears to have been done in the case of the appellant No. 2.”

7. In another case titled as **Commissioner and Secretary to Government of Haryana and Ors. v. Ram Sarup Ganda and Ors.** 2006 (12) SCALE 440,

The Apex Court has observed in its para No. 15:

“15 In the result, all the appeals are partly allowed. The appellants shall revise the pay scales of the respondents. In case of any anomaly, if the employees who, on fixation of ACP scales, are in receipt of lesser salary than their juniors in the same cadre/posts, then their salary shall be stepped up accordingly.....”

8. In another decision dated 25th October, 2010 rendered in W.P.(C) No. 2884/2010 titled as **UOI and Anr. v. Chandra Veer Jeriya**, the Delhi High Court while dealing with the same issue has observed in para 8 as follows :

“8 We agree with the findings arrived at by the Tribunal in view of the law laid down by the Supreme court in the decision reported as 1997 (3) SCC 176 UOI and Ors vs. P. Jagdish and Ors. It may be highlighted that the respondents did not claim any pay parity with officers junior to them but in the combatized cadre till as long the officers remained in their respective streams. They claimed parity when the two streams merged in the same reservoir i.e. when they reached the post of Administrative Officer/Section Officer and that too from the date persons junior to them, but from the combatized cadre, became Administrative Officer/Section Officer. The anomaly which then arose was that persons junior in the combined seniority list of Administrative Officer/Section Officer started receiving a higher wage. With reference to FR-22, in P. Jagdish’s case (supra) the Supreme Court held that Article 39(d) of the Constitution was the guiding factor in interpreting FR-22, The principle of stepping up contained in the fundamental rules comes into play when a junior person in the same posts starts receiving salary more than his senior on the same post.....”

9. In P. Jagdish case (supra), the Apex Court has observed that the principle of Stepping up prevents violation of the principle of “equal pay for equal work”. Applying the same principle of law here, a junior in the same posts cannot be allowed to draw salary higher than the seniors because that would be against the ethos of Article 39 (d) of the Constitution which envisages the principle of “equal pay for equal work”. Hence granting of stepping up is the only way out to remove the said anomaly, which permits juniors to draw higher salary in the same rank than their seniors. The only way to remove is the stepping up of salary of seniors. The rules and provisions which allow the said anomaly to exist and prohibit the stepping up are violative of the principles of natural justice and equity; are contrary to Article 39(d) of the Constitution which

envisages "equal pay for equal work" and contrary to the principles of law laid down by the Apex court in its pronouncements.

10. In view of above, the respondents are hereby directed to upgrade the basic pay of the applicant i.e. Rs. 6460/- w.e.f. 01.01.2006 with all retiral dues as was fixed to his juniors in the same rank. The Respondents are directed to comply the order within a period of three months from the date of receipt of certified copy of the order. Default will invite interest @ 8% per annum till actual payment.

11. Misc. Applications, if any, pending for disposal shall be treated to have been disposed of.

12. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

O.A. No. 731 of 2020 with M.A. No. 117 of 2021 Alongwith M.A. No. 443 of 2020

Maj Vinay Sharma

Applicant

By Legal Practitioner for the Applicant

Versus

Secretary GOI MOD & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.04.2021</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 Y.R. Sharma (Retd), learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents are present.</p> <p>Objection against amendment application filed by the respondents as well as reply to the objection filed by the applicant is taken on record.</p> <p>Since the submission of learned counsel for the respondents is that he is not in receipt of copy of reply, hence, learned counsel for the applicant is directed to get copy of reply sent to learned counsel for the respondents on email as well as through WhatsApp.</p> <p>List this case on 09.04.2021 for physical hearing at 2.30 PM.</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>SB</p>

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

R.A. No. 19 of 2019 with M.A. No. 211 of 2021 Inre T.A. No. 1257 of 2010

Ex Hav R.D. Tripathi	Petitioner
By Legal Practitioner for the Petitioner	
Versus	
Union of India & Others	Respondents
By Legal Practitioner for Respondents	

Notes of the Registry	Orders of the Tribunal
	<p><u>07.04.2021</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 Col Y.R. Sharma and Shri Yashpal Singh, learned counsel for the petitioner and Shri Namit Sharma, learned counsel for the respondents are present.</p> <p style="text-align: center;">With the consent of learned counsel for the parties, list this case on 09.04.2021 for physical hearing at 2.30 PM.</p> <p style="text-align: center;">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>SB</p>