

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

O.A. No. 74 of 2020 with M.A. No. 893 of 2019

Ex. Sep. Rajvir 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>08.01.2021</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 Om Prakash Kushwaha, Ld. Counsel for the applicant and Shri Anurag Mishra, Ld. Counsel for the respondents are present.</p> <p><u>M.A. No. 893 of 2019</u></p> <p style="text-align: center;">The Original Application has been filed with delay of 46 years, 09 months and 09 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. 74 of 2020</u></p> <p style="text-align: center;">Counter Affidavit filed by the respondents is taken on record.</p> <p style="text-align: center;">Rejoinder Affidavit, if any, may be filed within two weeks.</p> <p style="text-align: center;">List on 22.02.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>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. 451 of 2020 alongwith M.A. No. 452 of 2020
& M.A. No. 453 of 2020 Inre O.A. (A) (Nil) of 2020

Ex Nk Shankar Ingali
By Legal Practitioner for the Appellant

Appellant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.01.2021</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>Heard Shri Vinay Pandey, learned counsel for the appellant and Shri Sunil Sharma, learned counsel for the respondents.</p> <p><u>M.A. No. 451 of 2020</u></p> <p>There is delay of 01 year, 08 months and 25 days in filing application.</p> <p>Learned counsel for the applicant submitted that delay in filing application is not intentional but for the reasons stated in affidavit. He further submitted that immediately after being sentenced, the applicant was detained in prison and is still in prison with effect from 10.11.2018, with the result this application could not be filed in time.</p> <p>Learned counsel for the respondents has vehemently opposed the prayer and submitted that no satisfactory explanation has been given for delay by the applicant.</p> <p>Upon hearing submission of learned counsel of both sides and considering the facts and circumstances of the case specially that applicant was detained in prison, we find that cause shown is sufficient.</p> <p>Accordingly, we condone the delay.</p> <p>Let O.A. be registered.</p> <p><u>O.A. No. 29 of 2021</u></p> <p>Heard.</p> <p>Admit.</p> <p>Issue notice to respondents.</p> <p>Shri Sunil Sharma, Advocate received notice on behalf of the respondents and is granted four weeks time to file counter affidavit.</p> <p><u>M.A. No. 452 of 2020</u></p> <p>Shri Vinay Pandey, learned counsel for the applicant submitted that on account of the fact that the applicant had been taken into custody after filing surrender application and presently he is detained in District Prison, Jhansi, therefore under the circumstances there is no justification for pressing</p>

surrender application and the same be therefore dismissed.

In view of the above, surrender application is **dismissed** as not pressed.

M.A. No. 453 of 2020

Let objection, if any, be filed against bail application within four weeks and thereafter the case be listed for hearing on **19.02.2021**.

In the meantime applicant shall file supplementary affidavit annexing therewith documents relating to being detained in District Jail, Jhansi.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

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

M.A. No. 423 of 2019 Inre O.A. (Nil) of 2019

Ex Rfn/Clk Lalit Kishor John
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>08.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u> Heard Shri Virat Anand Singh, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents.</p> <p style="text-align: center;"><u>M.A. No. 423 of 2019</u></p> <p>The Original Application has been filed with delay of 28 years, 11 months and 04 days.</p> <p>Learned counsel for the applicant submitted that delay in filing application is not deliberate but for the reasons stated in affidavit. He further submitted that as a matter of fact applicant was dismissed from service on 20.11.1989 on the charges of being absent from duty for 67 days only despite having served in the army for about 17 years. He further submitted that applicant had approached the Hon'ble High Court, Allahabad for redressal of his grievance by way of filing Writ Petition No 41366/1994 which after the creation of Nainital High Court, was transferred to this High Court and which after the formation of Armed Forces Tribunals was transferred to this Tribunal. The petition was ultimately withdrawn from this Tribunal on 19.08.2009 with liberty to file afresh. Thereafter, the applicant approached Shri AK Tiwari, Advocate at Lucknow who took him to Shri PN Chaturvedi to file application in this Tribunal who assured him to get the petition filed. He further submitted that Shri PN Chaturvedi who was to file application died in the year 2018 on account of illness. Thereafter, applicant contacted the present counsel and got the petition filed. Thus, he submitted that delay in filing application is not intentional, but for the reasons stated above.</p> <p>Dr. Shailendra Sharma Atal, learned counsel for the respondents has vehemently opposed the prayer and has submitted that there is an inordinate delay of about 29 years in filing application which has not been satisfactorily explained as applicant has not assigned any reason why did he not approach the Hon'ble High Court for redressal of his grievances immediately after his dismissal. He has further submitted that the applicant has not assigned any</p>

reason for long delay in filing application in Tribunal while he had already engaged two counsels viz Shri AK Tiwari, Advocate and Shri PN Chaturvedi, Advocate.

Learned counsel for the respondents has also submitted that all documents relating to applicant have been destroyed as per retention policy.

Upon hearing submission of learned counsel of both sides and considering the facts and circumstances of the case especially long pending duration of case for fifteen years in Hon'ble High Court, we are of the considered view that delay in filing application is not deliberate and is, therefore, liable to be condoned.

Accordingly, delay in filing application is condoned.

Let Original Application be registered.

O.A. No. 28 of 2021

It is a fit case for adjudication.

Admit.

List this case on **12.03.2021** before the Registrar Court for exchange of pleadings and thereafter on **19.04.2021** before Tribunal for hearing.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

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