

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

O.A. No 504 of 2019

Ex Sub Lakhman 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>09.02.2021</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;">O.A. No. 504 of 2019, Ex Sub Lakhman 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> <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 101 of 2021

Ex Ris Shiv Mangal 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>09.02.2021</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>Memo of appearance filed by Shri Rajiv Pandey, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list as Ld. Counsel for the respondents.</p> <p>Heard Shri Ashok Kumar, Ld. Counsel for the applicant and Shri Rajiv Pandey, Ld. Counsel for the respondents.</p> <p>Heard. It is a fit case for adjudication.</p> <p>Admit.</p> <p>Issue notice to respondents. Shri Rajiv Pandey, learned counsel for the respondents has accepted notice. He prays for and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List this case on 20.04.2021 before the Registrar Court for exchange of pleadings.</p> <p>List the matter before Tribunal on 05.05.2021.</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)

M.A. No 88 of 2021 Inre O.A. (Nil) of 2021

Ex Rect Chhotu 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>09.02.2021</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;">Memo of appearance filed by Shri Dr Chet Narayan Singh, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list as Ld. Counsel for the respondents.</p> <p style="text-align: justify;">Heard Shri KK Misra , Ld. Counsel for the applicant and Dr Chet Narayan Singh, Ld. Counsel for the respondents.</p> <p style="text-align: justify;">The Original Application has been filed with delay of 26 years, 03 months and 04 days. Regarding delay the submission of the Ld. Counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that applicant has explained the delay in affidavit filed in support of application and, in view of this, delay is liable to be condoned.</p> <p style="text-align: justify;">Ld. Counsel for the respondents has vehemently opposed the prayer saying there being inordinate delay in filing the Original Application and explanation for day to day delay offered by the applicant being not sufficient, application should be dismissed.</p> <p style="text-align: justify;">Undisputedly, it is a pensionary matter in which cause of action does not accrue on a fixed date. The matter being a case of continuing wrong, cause of action accrues from month to month. Considering this aspect and explanation of delay offered by the applicant, being sufficient, as seems, delay deserves to be condoned.</p> <p style="text-align: justify;">In the result, delay condonation application is allowed.</p> <p style="text-align: justify;">Let the Original Application be registered.</p> <p><u>O.A. No. 114 of 2021</u></p> <p style="text-align: justify;">Heard. It is a fit case for adjudication.</p> <p style="text-align: justify;">Admit.</p> <p style="text-align: justify;">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: justify;">List this case on 22.04.2021 before the Registrar Court for exchange of pleadings.</p> <p style="text-align: justify;">List the matter before Tribunal on 06.05.2021.</p> <p style="text-align: justify;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: justify;">(Justice Umesh Chandra Srivastava) Member (J)</p>

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

M.A. No 89 of 2021 Inre O.A. (Nil) of 2021

Ex Nk Yatendra 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>09.02.2021</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>Memo of appearance filed by Shri Alok Kumar Mishra, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list as Ld. Counsel for the respondents.</p> <p>Heard Shri KK Misra, Ld. Counsel for the applicant and Shri Alok Kumar Mishra, Ld. Counsel for the respondents.</p> <p>The Original Application has been filed with delay of 1 month and 3 days. Regarding delay the submission of the Ld. Counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that applicant has explained the delay in affidavit filed in support of application and, in view of this, delay is liable to be condoned.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer saying there being inordinate delay in filing the Original Application and explanation for day to day delay offered by the applicant being not sufficient, application should be dismissed.</p> <p>Undisputedly, it is a pensionary matter in which cause of action does not accrue on a fixed date. The matter being a case of continuing wrong, cause of action accrues from month to month. Considering this aspect and explanation of delay offered by the applicant, being sufficient, as seems, delay deserves to be condoned.</p> <p>In the result, delay condonation application is allowed.</p> <p>Let the Original Application be registered.</p> <p><u>O.A. No. 113 of 2021</u></p> <p>Heard. 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 this case on 22.04.2021 before the Registrar Court for exchange of pleadings.</p> <p>List the matter before Tribunal on 06.05.2021.</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)**

M.A. No 83 of 2021 Inre O.A. (Nil) of 2021

Smt Laxmi Kandari, W/o Hav Sohan Singh (Missing) 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>09.02.2021</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>Memo of appearance filed by Shri Amit Jaiswal, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list as Ld. Counsel for the respondents.</p> <p>Heard Shri Parijaat Belaura, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents.</p> <p>Learned counsel for the respondents submits that there is delay of more than 05 years in filing Original Application.</p> <p>Learned counsel for the respondents seeks and is allowed a week's time to file objection on application for condonation of delay.</p> <p>List the matter before Tribunal on 01.03.2021.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;"> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> </div> <div style="text-align: center;"> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> </div> </div> <p style="margin-top: 10px;">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 104 of 2021

Ex Sub Manoj 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>09.02.2021</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>Memo of appearance filed by Shri Ashish Kumar Singh, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list as Ld. Counsel for the respondents.</p> <p>Heard Shri Satendra Singh, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents.</p> <p>Heard. 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 this case on 26.04.2021 before the Registrar Court for exchange of pleadings.</p> <p>List the matter before Tribunal on 06.05.2021.</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 102 of 2021

Rfn/Chef (Community) Devendra Mohan
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>09.02.2021</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;">Memo of appearance filed by Shri GS Sikarwar, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list as Ld. Counsel for the respondents.</p> <p style="text-align: justify;">Heard Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Shri GS Sikarwar , Ld. Counsel for the respondents.</p> <p style="text-align: justify;">Heard. It is a fit case for adjudication.</p> <p style="text-align: justify;">Admit.</p> <p style="text-align: justify;">Issue notice to respondents. Shri GS Sikarwar, Ld. Counsel for the respondents has accepted the notice and he prays for and is allowed four weeks time to file Counter Affidavit.</p> <p style="text-align: justify;">List the matter before Tribunal on 15.03.2021.</p> <p style="text-align: justify;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: justify;">(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 44 of 2021

Nk Sanjay 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>09.02.2021</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>Memo of appearance filed by Dr Shailendra Sharma Atal, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list as Ld. Counsel for the respondents.</p> <p>Heard Shri Virat Anand Singh, Ld. Counsel for the applicant and Dr Shailendra Sharma Atal, Ld. Counsel for the respondents.</p> <p>Heard. 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 this case on 29.04.2021 before the Registrar Court for exchange of pleadings.</p> <p>List the matter before Tribunal on 07.05.2021.</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)

M.A. No 84 of 2021 with M.A. No 85 of 2021 Inre M.A. No 2229 of 2017
Inre O.A. (Nil) of 2017

Ex Sep Ravendra 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>09.02.2021</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>Memo of appearance filed by Dr. SN Pandey, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list as Ld. Counsel for the respondents.</p> <p>On the case being taken up for hearing Dr. SN Pandey, Ld. Counsel for the respondents is present. None is present on behalf of applicant.</p> <p><u>M.A. No 84 of 2021 with M.A. No 85 of 2021</u></p> <p>This is an application for recall of order dated 05.11.2020 which is delayed by 01 month and 28 days. The affidavit filed in support of application for condonation of delay in filing recall application seem to be genuine. Accordingly, delay is condoned and M.A. along with O.A. are restored on their original number.</p> <p><u>M.A. No 2229 of 2017 Inre O.A. (Nil) of 2017</u></p> <p>List on 23.03.2021 for hearing on admission.</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)

M.A. No 91 of 2021 with M.A. No 92 of 2021 Inre M.A. No 854 of 2019
Inre O.A. (Nil) of 2019

Smt Kunwari Kuwar
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>09.02.2021</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>Memo of appearance filed by Dr. Shailendra Sharma Atal, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list as Ld. Counsel for the respondents.</p> <p>On the case being taken up for hearing Shri Virat Anand Singh, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>During the course of hearing Dr. Shailendra Sharma Atal, learned counsel for the respondents raised a technical issue that in view of facts stated in recall application, affidavit filed in support of delay condonation cannot be said to be sworn in Lucknow.</p> <p>Contrarily, applicant's learned counsel submitted that affidavit was sworn in Lucknow and applicant had put his thumb impression over affidavit in his presence.</p> <p>In view of the aforesaid, we condone the delay and allow recall application.</p> <p><u>M.A. No 854 of 2019 Inre O.A. (Nil) of 2019</u></p> <p>As prayed, applicant is granted a week time to file amendment application.</p> <p>List this case on 23.03.2021.</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)

Ex. A. No 8 of 2020 Inre O.A. No 150 of 2019

Ex Nk (TS) Til Bahadur Khatri
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>09.02.2021</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 Rohit Kumar, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present.</p> <p>Affidavit of compliance filed by learned counsel for the respondents is taken on record.</p> <p>It is submitted by learned counsel for the respondents that applicant's pension has already been resumed w.e.f. 01.10.2020 and Rs 6,098/- has been credited in his account towards pension for the month of October, 2020. Regarding payment of arrears, he submits that matter is in process which may take three weeks further time to get completed. Accordingly, he submits to grant three weeks further time to make complete compliance which is allowed.</p> <p style="text-align: center;">List on 19.03.2021.</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)

M.A. No 83 of 2019 Inre O.A. (A) (Nil) of 2019

Ex LAC Balveer Dineshbhai Dhadal
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>09.02.2021</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 Ms. Tanya, Advocate, holding brief of Wg Cdr Ajit Kakkar (Retd), learned counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p><u>M.A. No 83 of 2019</u></p> <p>Heard learned counsel for both the parties on delay condonation application.</p> <p>There is delay of 01 year, 08 months and 21 days in filing the application.</p> <p>Learned counsel for the applicant submits that applicant became unemployed after his dismissal and had no source of income or means of survival. He further submitted that applicant is the sole bread winner of his family and his sudden dismissal from service forced him into pauper like situation and he faced severe difficulties in sustaining himself and his family, due to which he could not file appeal against DCM proceedings within the given time. Thus, he submitted that delay in filing appeal/application is not deliberate, but for the reasons stated above.</p> <p>Learned counsel for the respondents vehemently opposed the aforesaid submissions and submitted that explanation offered being not on day to day basis is not satisfactory and sufficient.</p> <p>Having heard the submissions of learned counsel for both sides and having gone through facts averred in affidavit filed in support of delay condonation application, we find that applicant has not assigned any sufficient and satisfactory explanation for the delay. We also find that where an application is required to be filed in a time under the statute and the same is not filed, applicant is required to explain the delay on day to day basis which applicant has utterly failed in the given case.</p> <p>In the result, we do not see any reason to condone the delay.</p> <p>Delay condonation application is accordingly rejected.</p> <p>O.A. Being barred by time is also dismissed.</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. 394 of 2019

Nk (Tailor) Ashraf Miyan
By Legal Practitioner for the Applicant

Applicant

Versus

Record Officer, Record Office
Bombay Engineer Group Kirkee
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>09.02.2021</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 Dileep Mishra, learned counsel for the applicant and Dr. Gyan Singh, learned counsel for the respondents are present.</p> <p>Counter affidavit filed by the respondents is taken on record.</p> <p>List on 03.05.2021 for hearing.</p> <p>In the meantime, applicant may file rejoinder affidavit.</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
Court No.1 (E. Court)

O.A. No. 78 of 2020 with M.A. No. 969 of 2019

Ex Hav Khadek Bahadur
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>09.02.2021</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 Awasthi, learned counsel for the applicant and Shri Adesh Kumar Gupta, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the respondents, 10 days and no more time is granted to file counter affidavit.</p> <p>List on 22.02.2021 for hearing.</p> <p>It is made clear that in case counter affidavit is not filed within the aforesaid period, opportunity to file the same shall be closed without any reference.</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
Court No.1 (E. Court)

O. A. No 490 of 2019

Ex Hav (Hony Nb Sub) Suresh Pal Rathore
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>09.02.2021</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 Parijaat Belaura, learned counsel for the applicant and Shri Adesh Kumar Gupta, learned counsel for the respondents.</p> <p>Shri Parijaat Belaura, learned counsel for the applicant submits that Original Application may be disposed off with direction to the respondents to revise the pension of applicant in terms of letter No.1(13)/2016/D (Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, to which Shri Adesh Kumar Gupta, learned counsel for the respondents has no objection.</p> <p>With the consent of learned counsel for the parties, we hereby dispose of the Original Application finally with the direction to the respondents to revise the pension of applicant in terms of letter No. 1(13)/2016/D (Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, within a period of three months from the date of receipt of copy of this order and communicate to the applicant accordingly after verifying the documents.</p> <p>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>rathore</p>

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

O.A. No. 785 of 2020

Abhishek Kumar Tripathi S/O
Ex Sep Balaji 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>09.02.2021</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>Memo of appearance filed by Shri Sunil Sharma, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list.</p> <p>On the case being taken up for hearing Shri Parijaat Belaura, learned counsel for the applicant and Shri Sunil Sharma, learned counsel for the respondents are present.</p> <p>As prayed, list on 22.02.2021.</p> <p>(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
Court No.1 (E. Court)

Dy No. 1171 of 2019 Inre O.A. (Nil) of 2019

Dfr Shiv Chand Singh Chauhan
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>09.02.2021</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 Prabhat Kumar Tripathi, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p>Despite the O.A. being filed in the year 2019 and defects being pointed out, the same have not been removed as yet. Applicant is directed to remove the defects within a week positively, failing which the O.A. shall be dismissed for non prosecution.</p> <p style="text-align: center;">List on 17.02.2021.</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
Court No.1 (E. Court)

Ex-A/121 of 2019 Inre O.A. No. 503 of 2018

Ex Hav Dushyant 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>09.02.2021</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 Anurag Mishra, learned counsel for the respondents are present.</p> <p>Affidavit of compliance filed by the respondents is taken on record.</p> <p>It is submitted by learned counsel for the respondents that PPO has already been issued on 30.12.2020 and the same would be served upon learned counsel for the applicant by today itself. It is further submitted that a week time be granted to file another affidavit of compliance annexing therewith copy of PPO, which is allowed.</p> <p>Let supplementary affidavit of compliance be filed within a week.</p> <p>List on 03.03.2021.</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
Court No.1 (E. Court)

M.A. No. 1551 of 2018 Inre O.A. (Nil) of 2018

Ex Sgt Pius Kumar Chaubey

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>09.02.2021</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 Rishabh Tripathi, learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents.</p> <p><u>M.A. No. 1551 of 2018</u></p> <p>There is a delay of 05 years, 11 months and 21 days in filing application. Submission of learned counsel for the applicant is that delay in filing of Original Application is not intentional, but on account of reasons stated in affidavit filed in support of application.</p> <p>While filing objection against delay condonation application, respondents have vehemently opposed the prayer saying explanation offered by the applicant for the delay is not sufficient.</p> <p>Having heard submission of learned counsel for the applicant and having gone through the facts and circumstances of the case, we find that cause shown is sufficient.</p> <p>Accordingly, delay in filing application is condoned.</p> <p>Let O.A. be registered.</p> <p><u>O.A. No. 116 of 2021</u></p> <p>It is a fit case for adjudication.</p> <p>Learned 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 this case on 05.04.2021 before the Registrar Court for exchange of pleadings and thereafter list on 12.04.2021 before Tribunal for final 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
Court No.1 (E. Court)

O.A. No. 129 of 2020

Hav Lalendra Kumar Choudhary
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>09.02.2021</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, learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents are present.</p> <p>Counter affidavit filed by the respondents is taken on record.</p> <p>Learned counsel for the applicant prays for and is allowed two weeks time to file rejoinder affidavit.</p> <p>List on 13.04.2021 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
Court No.1 (E. Court)

Ex-A/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>09.02.2021</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 Singh, learned counsel for the applicant and Dr. Chet Narain Singh, learned counsel for the respondents are present.</p> <p>Learned counsel for the applicant has filed supplementary affidavit, which is taken on record, as prayed.</p> <p>In O.A. applicant has stated that as against Rs 45 lakhs towards arrears, he has been paid Rs 13,68,000/- only. He has also stated that he is not getting the same salary which another soldier Babu Singh is getting in the same unit. He has further stated that he is getting Rs 21,700/- per month as salary whereas Babu Singh is getting Rs 32,300/- per month, and thus, it has been submitted on his behalf that respondents have not complied the order in letter and spirit.</p> <p>Respondents have not filed any calculation sheet regarding payment of arrears. They are, therefore, directed to file the same within two weeks. Respondents are also directed to file reply to the supplementary affidavit within the aforesaid period.</p> <p>Applicant is also directed to file calculation sheet for the amount he claims to be paid towards arrears within same period of time.</p> <p>List on 24.03.2021.</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
Court No.1 (E. Court)
Ex-A/24 of 2019 Inre O.A. No. 266 of 2015

Ex L/Nk Hari Bahadur
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>09.02.2021 Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J) Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</p> <ol style="list-style-type: none">1. Affidavit of compliance filed by respondents is taken on record.2. Heard Shri VP Pandey, learned counsel for the applicant and Shri Asheesh Agnihotri, learned counsel for the respondents.3. Learned counsel for the applicant submitted that applicant had filed the O.A. for the grant of disability pension which was allowed and respondents were directed to pay disability pension to applicant @ 50% for two years and to hold Re-survey Medical Board (RSMB) to assess further disability of the applicant, if any. Accordingly RSMB was held and applicant's disability being found to be continued, PPO was issued which included disability element only, whereas applicant is entitled to service element also. He further submitted that disability pension includes both service element as well as disability element.4. Per contra, learned counsel for the respondents submitted that applicant's claim for the grant of service element is not maintainable on account of him being discharged on his own request, and not on medical reasons. He further submitted that in view of directions contained in the judgment, applicant had filed petition for the grant of service pension and the same being not permissible due to short fall in minimum qualifying service the same was turned down. Thus, he submitted that order stood complied with.5. We have gone through the order under execution and we find that applicant has not been held to be discharged on his own request, rather he has been held to be invalided out due to disability and, therefore, has been held entitled to get disability pension which includes both service element and disability element.6. Admittedly, PPO filed by the respondents alongwith compliance affidavit speaks about disability element only. Therefore, respondents are directed to issue corrigendum PPO, including therein service element also, within four weeks from today and to file affidavit of compliance.7. List on 25.03.2021.8. Let copy of order be issued to counsel for the respondents today to ensure compliance of the order. <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
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>09.02.2021</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, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents are present.</p> <p>Rejoinder affidavit filed by learned counsel for the applicant is taken on record.</p> <p>List on 14.04.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

DY. No. 2304 of 2019 Inre O.A. No. (Nil) of 2019

Ex Rect Akshay Kumar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>09.02.2021</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 Ms Riya Gandhi, Advocate holding brief for Wg Cdr Ajit Kakkar (Retd), learned counsel for the applicant and Shri Arun Kumar Sahu, learned counsel for the respondents are present.</p> <p>Ms Riya Gandhi, Advocate, brief holder of learned counsel for the applicant submitted that applicant has filed delay condonation application in the Registry on 05.02.2021.</p> <p>It is submitted that the said application is not on record. Registry is, therefore, directed to trace the same and place on record.</p> <p>List on 16.02.2021.</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
Court No.1 (E. Court)

Ex-A/26 of 2018 with M.A. No. 31 of 2021
Inre T.A. No. 178 of 2009

Sriram Pandey
By Legal Practitioner for the Applicant

Petitioner

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>09.02.2021</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 Yashpal Singh, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents.</p> <p style="text-align: center;"><u>M.A. No. 31 of 2021</u></p> <p>2. Impleadment application is taken on record. M.A. No. 31 of 2021 is disposed of.</p> <p style="text-align: center;"><u>Ex-A/26 of 2018</u></p> <p>3. By means of this execution application, applicant has prayed for grant of service element of disability pension granted vide order dated 27.07.2017. The applicant was granted disability pension @ 50% for two years. Re-survey Medical Board (RSMB) was conducted on 30.06.2018 in which applicant was found to be fully fit with an endorsement on AFMSF-17 (Ver-2006) 'Individual recovered completely'. This implies that applicant is not having any disability. The respondents have stopped disability on the ground of disability being nil. But the fact remains that disability pension includes two elements i.e. service element+disability element. In the instant case it is obvious that since applicant is not entitled to disability element being nil disability, he is still entitled to service element of disability pension which he is claiming.</p> <p>4. Learned counsel for the applicant has placed reliance on order dated 30.04.2017 rendered by AFT, Kochi in O.A. No. 3 of 2016 titled <i>Ex ERA4, AB Pulikottil vs Union of India & Ors</i>, wherein it has been held that applicant is entitled to service element of disability pension with effect from date of discharge even if the disability element is stopped on account of disability</p>

being below 20%.

5. Further, placing reliance on this Tribunal order dated 09.01.2019, O.A. No. 450 of 2017, **Sepoy Suresh Singh vs Union of India & Ors** and Hon'ble Supreme Court judgment rendered in Civil Appeal No 4714-4715 of 2012, decided on 07.11.2019, **Union of India & Ors vs VR Nanukuttan Nair**, learned counsel for the applicant contended that applicant is entitled to service element of disability pension.

6. On the other hand, learned counsel for the respondents submitted a vague argument which does not impress us.

7. We have gone through the contents of aforesaid judgments and also Rule 186 of Pension Regulations for the Army, 1961 (Part-I) which reads as under:-

“186. (1) An individual who is invalided out of service with a disability attributable to or aggravated by service but assessed at below 20% shall be entitled to service element only.

(2) An individual who was initially granted disability pension but whose disability is re-assessed at below 20% subsequently shall cease to draw disability element of disability pension from the date it falls below 20%. He shall however continue to draw the service element of disability pension.

8. Thus, in the facts and circumstances of the case, we find that the applicant is entitled to service element of disability pension with effect from his date of discharge.

9. Accordingly, respondents are directed to issue Corrigendum PPO within four weeks from the date of receipt of certified copy of this order and file compliance report.

10. List on **19.03.2021**.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

rathore

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

M.A. No. 90 of 2021 Inre O.A. No. 678 of 2020

Lt Col Bir 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>09.02.2021</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 Ajai Kumar Pandey, Ld. Counsel for the applicant and Shri Rajesh Shukla, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the respondents seeks and is allowed two weeks time to file counter affidavit.</p> <p>List this case on 04.03.2021 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>(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. 88 of 2018

Surendra 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>09.02.2021</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>Vakalatnama filed by Shri Yashpal Singh, Advocate today in the Court on behalf of applicant is taken on record. His name be shown as learned counsel for the applicant when the case is next listed.</p> <p>Shri Amit Jaiswal, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p>On the case being taken up for hearing Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p>List this case on 17.02.2021 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>SB</p>

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

T.A. No. 596 of 2010

Udai Veer Singh
By Legal Practitioner for the Petitioner

Petitioner

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>09.02.2021</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 B.P. Singh (Retd), Ld. Counsel for the petitioner and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>List this case on 17.02.2021 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>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. 307 of 2016

Jagirman Rai
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>09.02.2021</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 Shri Parijaat Belaura, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents are present.</p> <p style="text-align: justify;">Pleadings are complete and the case is ripe for hearing.</p> <p style="text-align: justify;">List this case on 04.03.2021 for hearing.</p> <p style="text-align: justify;">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)

O.A. No. 541 of 2018

Satya 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>09.02.2021</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>As prayed, list tomorrow (10.02.2021) 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="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. 138 of 2016

VK Prajapati & Ors
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>09.02.2021</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 Rajeev Srivastava, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>Pleadings are complete and the case is ripe for hearing.</p> <p>List this case on 19.03.2021 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>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. 85 of 2019 with M.A. No. 362 of 2019 alongwith O.A. No. 64 of 2014
(Decided)

Ex Nb Sub Ram Prasad
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>09.02.2021</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 Anurag Mishra, Ld. Counsel for the respondents are present.</p> <p style="text-align:center"><u>M.A. No. 362 of 2019</u></p> <p>Heard learned counsel for the applicant on the points raised in amendment application.</p> <p>Amendment application is rejected.</p> <p style="text-align:center"><u>O.A. No. 85 of 2019</u></p> <p>Heard.</p> <p>Arguments concluded.</p> <p>Order is reserved.</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. 9 of 2017

Smt. Radha 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>09.02.2021</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 Vijay Kumar Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Pleadings are complete and the case is ripe for hearing.</p> <p style="text-align: center;">List this case on 23.03.2021 for hearing.</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>

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

O.A. No. 666 of 2017

Avadh Narain
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>09.02.2021</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), Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents. Arguments concluded. As prayed, list tomorrow (10.02.2021) for physical hearing.</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. 330 of 2019

Ex Hav Vikram Singh Bhandari
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>09.02.2021</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 R. Chandra, Ld. Counsel for the applicant and Shri Kaushik Chatterjee, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">As prayed, list this case on 11.02.2021 for physical hearing.</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) 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. 247 of 2015

Meera 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>09.02.2021</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 Sharad Nandan Ojha, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents. Arguments concluded. Order is reserved.</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. 48 of 2020 with M.A. No. 11 of 2020

Ex Hav Keshav Dev Agarwal
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>09.02.2021</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 Manoj Kumar Awasthi, learned counsel for the applicant and Dr. Gyan Singh, learned counsel for the respondents.</p> <p>2. Applicant has filed present application under Section 14 of the Armed Forces Tribunal Act, 2007 and has sought following reliefs:-</p> <p>“(a) To issue pass an order or directions to set-aside / quash the order no. G3/30/5233/IV/378-29 (copy not provided to the applicant) passed by respondent no.-4.</p> <p>(b) Top issue pass an order or directions to the respondents to grant Disability Pension at the rate of percentage of assessment as provided in Invalid medical Board Proceedings (copy not provided to the applicant) for life from date of discharge i.e. 24.06.1980 in lieu of Hon'ble supreme Court judgments cited above and pay due arrears including consequential benefits with interest @ 12% p.a. on arrear till final payment is made.</p> <p>(c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstance of the case is also granted alongwith cost of the OA.</p> <p>(d) To allow this original application with costs.”</p> <p>3. Brief facts of the case are that applicant was enrolled in the army on 12.09.1977 and was invalided out from service on 23.06.1980 under Army Rule 13 (3) III (iii) after rendering 02 years and 281 days service being medically unfit for further service with disability “ANXIETY STATE 300-91 (V-67)”. This O.A. has been filed for grant of disability pension after a gap of more than 39 years from the date of invaliding out from service.</p> <p>4. Learned counsel for the applicant submitted that applicant was found fit</p>

in all respects at the time of enrolment in the army and there was no note in his primary service documents with regard to any disease/disability. Therefore, whatever disease with which applicant suffered during service is attributable to military service. Learned counsel for the applicant also relied upon judgment of the Hon'ble Apex Court in the case of **Sukhvinder Singh vs. Union of India**, (Civil appeal No. 5605 of 2010 decided on 25.06.2014), **Dharamveer Singh vs Union of India**, Case No. 4949 of 2013, decided on 02.07.2013, **Union of India and Ors vs. Ram Avtar & ors**, Civil Appeal No 418 of 2012, dated 10th December 2014 and Govt of India letter dated 31.01.2001 and pleaded that disability pension be granted to the applicant and benefit of rounding off to 50% from the date of discharge.

5. On the other hand, learned counsel for the respondents submitted that disability pension of the applicant was rejected by PCDA (P) Allahabad stating that "**Disability – 'ANXIETY STATE 300-91 (V-67) is not attributable to military service and does not fulfil the conditions, namely that it existed before or arose during military service and has been or remains aggravated thereby. Accordingly no disability pension is admissible**". He further submitted that applicant was non pensioner, therefore, his medical documents including constituents thereof have been destroyed by burning after expiry of retention period as per para 595 of Regulations for the Army 1987. Sheet roll in respect of pensioners and non- pensioners are retained for a period of 50 years and 25 years respectively from the date of becoming non-effective. Further submission of learned counsel for the respondents is that since documents relating to applicant have been destroyed on expiry of mandatory retention period of 25 years being a non-pensioner, therefore, degree of disablement cannot be ascertained at this stage. He pleaded the O.A. to be dismissed being devoid of merit.

6. We have perused the records and we find that documents relating to ex army person have been destroyed after mandatory retention period in terms of para 595 of Regulations for the Army, 1987. Further, transcribe sheet (IAFK-1172) attached to counter affidavit which has also been provided to applicant, reveals that he was not likely to be fit for further service and was recommended to be invalided out from service in medical category EEE on the

recommendations of medical specialist. We could have decided the case, had there been related medical documents pertaining to the applicant and applicant could have been benefitted, but we are unable to impart justice in the absence of requisite medical documents.

7. In view of the above, we are unable to decide the case in vacuum after a prolonged gap of more than 39 years from the date of invaliding out from service. O.A. is devoid of merit and is liable to be dismissed. It is accordingly **dismissed.**

8. No order as to costs.

9. Pending misc. applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB