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

O.A. No 190 of 2019

Ex MWO Damodar Prasad 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** O.A. No. 190 of 2019, Ex MWO Damodar Prasad Singh, vs. Union of India and others is **allowed.** For order, see our judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

M.A. No 106 of 2021 Inre O.A. (Nil) of 2021

Ex Sep Bijander Pal 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of appearance filed by Shri Devesh Kumar, 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. On the case being taken up for hearing Shri Ashok Kumar and Vikas Singh Chauhan, Ld. Counsel for the applicant and Shri Devesh Kumar, Ld. Counsel for the respondents are present. The instant O.A. has been filed with the delay of 46 years, 11 months and 20 days. Learned counsel for the respondents seeks time to file objection which is allowed. Let objection be filed within two weeks. List on **23.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
M.A. No 107 of 2021 Inre O.A. (Nil) of 2021

Ex Sub Maj Mahendra 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of appearance filed by Ms. Prerna Singh, Advocate on behalf of the respondents is taken on record. Her name shall be shown in the cause list as Counsel for the respondents. Heard Shri Manoj Kumar Awasthi and Shri Anshuman Srivastava, Ld. Counsel for the applicant and Ms. Prerna Singh, Ld. Counsel for the respondents. The Original Application has been filed with delay of 19 years, 06 months and 08 days. Regarding delay, submission of 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 delay, if any, is not deliberate but for the reasons stated in affidavit filed in support of application. Ld. Counsel for the respondents has vehemently opposed the prayer saying no satisfactory explanation has been given for the delay. Upon hearing submissions of learned counsel of the parties and considering the facts and circumstances of the case, we are of the view that cause shown is sufficient. Accordingly, delay condonation application is allowed. Let Original Application be registered. **O.A. No. 119 of 2021** Heard. It is a fit case for adjudication. Admit. Issue notice to respondents. Ms. Prerna Singh, learned counsel for the respondents has accepted notice on behalf of respondents. She prays for and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks next thereafter. List this case on **26.04.2021** before the Registrar Court for exchange of pleadings. List before Tribunal on **10.05.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

Dy No 1017 of 2013

Ram Sakal 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Vinay Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Learned counsel for the applicant prays for and is granted a week's and no more time to remove the defects. It is clarified that in case defects are not removed by the date fixed, application will be dismissed. List on **24.02.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

Dy No 1619 of 2017 with M.A. No 432 of 2020 Inre O.A. (Nil) of 2017

Ex JWO Bharat Prasad Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri VP Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. **M.A. No 432 of 2020** Heard learned counsel for the parties on amendment application. By means of this application, applicant wants to delete certain portion of the relief clause in the O.A. Amendment application being formal in nature is allowed. Let amendment be incorporated and copy of amended O.A. be provided to respondents within a week. **Dy No 1619 of 2017** Heard learned counsel for the parties on application for condonation of delay. There is delay of 15 years, 11 months and 19 days in filing the application. Regarding delay, the submission of 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. Ld. Counsel for the respondents has vehemently opposed the prayer saying there being inordinate delay in filing the Original Application and the same being not satisfactorily explained, application should be dismissed. Upon hearing submissions of the parties' learned counsel and considering facts and circumstances of the case, we are of the view that cause shown is sufficient. Accordingly, delay condonation application is allowed. Let Original Application be registered.

	<u>O.A. No. 120 of 2021</u> Heard. It is a fit case for adjudication. Admit. Issue notice to respondents. Dr. Shailendra Sharma Atal, learned counsel for respondents has accepted the 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. List on **26.04.2021** before the Registrar Court for exchange of pleadings. List before Tribunal on **10.05.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

Ex. A. No 182 of 2018 Inre O.A. No 304 of 2016

Ex Hav Keshu Prasad Dubey 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri SG Singh, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present. Learned counsel for the applicant submits that order has been complied with. Accordingly, Execution Application is **dismissed** in full and final satisfaction. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

Ex. A. No 74 of 2019 Inre O.A. No 446 of 2017

Smt Meera Devi Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Ashok Kumar, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present. Learned counsel for the applicant submits that copy of PPO has been received by the applicant. Regarding affidavit of compliance, learned counsel for the respondents submits that same has been filed in Registry on 06.01.2021. However, Registry has informed that no such report is filed. Respondents are, therefore, directed to file copy of affidavit of compliance within two weeks. List on **15.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

Ex. A. No 81 of 2019 with M.A. No 862 of 2019 Inre O.A. No 236 of 2018

Ex Hav (Hony Nb Sub) Phool Chand 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents and Shri RK Tiwari, Account Officer, PCDA (P), Allahabad. Learned counsel for the applicant has raised certain points regarding arrears which need clarification by respondent No 4. Issue notice to Respondent No 4 returnable within four weeks. List on **25.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

Ex. A. No 23 of 2020 Inre O.A. No 524 of 2019 with M.A. No 857 of 2019

Ex Hav (Hony Nb Sub) Santosh 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Om Prakash Kushwaha, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents are present. Learned counsel for the respondents prays for and is granted 3 days time to file compliance report. List on **17.02.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

M.A. No 439 of 2019 Inre O.A. (Nil) of 2019

Smt Raj Wati 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri KK Misra, Ld. Counsel for the applicant and Shri Anaurag Mishra, Ld. Counsel for the respondents assisted by Maj Sini Thomas, Departmental Representative. The Original Application has been filed with delay of 48 years, 01 month and 10 days. Ld. Counsel for the applicant submitted that applicant's husband was discharged from service in 1975 on medical reasons being mentally ill. The illness of applicant's husband continued till his death which took place on 10.11.1996. He further submitted that applicant who is a rustic lady and not aware about rules and regulations could not file representation for the grant of disability pension within time. He further submitted that bar of limitation is not applicable in matters pertaining to pension. Ld. Counsel for the respondents has vehemently opposed the prayer and submitted that since applicant has not availed remedy of statutory appeal, her claim for the grant of disability pension is not maintainable. He also submitted that all documents relating to applicant have been destroyed and that no satisfactory explanation for delay has been given. Upon hearing submissions of learned counsel of the parties and considering the facts and circumstances of the case, we find that applicant being a rustic lady and bar of limitation being not applicable in pensionary matters, cause shown is sufficient. Accordingly, delay condonation application is allowed. Let Original Application be registered.

	O.A. No. 123 of 2021 Heard. It is a fit case for adjudication. Admit. Issue notice to respondents. 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. List this case on **26.04.2021** before the Registrar Court for exchange of pleadings. List the matter before Tribunal on **10.05.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

M.A. No 642 of 2019 Inre O.A. (Nil) of 2019

Ex Rect Hambir 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri KK MiIsra, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents assisted by Maj Sini Thomas, Departmental Representative. There is delay of 48 years, 08 months and 16 days in filing the O.A. 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. 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. 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. In the result, delay condonation application is allowed. Let the Original Application be registered. **O.A. No. 122 of 2021** Heard. It is a fit case for adjudication. Admit. Issue notice to respondents. 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. List this case on **26.04.2021** before the Registrar Court for exchange of pleadings. List the matter before Tribunal on **10.05.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

M.A. No 754 of 2019 Inre O.A. (Nil) of 2019

Sep Navghare Sudhakar Vishwas 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Shri Rohit Kumar, Advocate, prays for and is granted one week's time to file vakalatnama on behalf of applicant. He also submitted that respondents be directed to provide copy of objection filed by them which is allowed. Let copy of objection be given to Shri Rohit Kumar, learned counsel for the applicant within a week. List on **22.02.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

M.A. No 77 of 2020 Inre O.A. (Nil) of 2020

Ex Sep Kalicharan Thakur 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Gyan Singh Chauhan and Shri KB Singh, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Learned counsel for the respondents prays for and is granted four weeks time to file objection on delay. List on **17.03.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

M.A. No 294 of 2020 Inre O.A. (Nil) of 2020

Sub (RT) Rama Kant Mishra Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri KP Datta, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present. There is delay of 12 years, 01 month and 24 days in filing the O.A. This O.A. has been filed for fixation of pay in which delay condontion application has been moved and respondents have also filed objection. However considering that respondents have also filed counter affidavit, delay in filing application is condoned treating cause shown as sufficient. In the result, delay condonation application is allowed. Let the Original Application be registered. **O.A. No. 121 of 2021** Heard. It is a fit case for adjudication. Admit. Issue notice to respondents. Learned counsel for the respondents has accepted notice. List the matter before Tribunal on **11.05.2021** for final hearing**.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

O.A. No 373 of 2018

Bom Bahadur Thapa 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Amit Kumar Verma and Shri BB Tripathi, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents along with Maj Sini thomos, Departmental Representative are present. Learned counsel for the respondents prays for four weeks further time to file counter affidavit which is allowed. List on **26.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

O.A. No 26 of 2021

Col Naveen Ahlawat 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** 1. Heard Shri SS Rajawat, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents No 1 to 3. 2. In view of order proposed to be passed, notice to respondent No. 4 is dispensed with. 3. By means of this petition applicant prays that respondent Nos 1 to 3 be issued direction to treat Aditi Ahlawat as his legally wedded wife and also cause her name entered as such in his service records by issuing part II order publication. 4. Learned counsel for the applicant submitted that applicant got married with respondent No. 4 Mrs Renu Singh on 28.09.1998 as per hindu rites and rituals. On 03.08.2001 a baby girl named Monishka was born to them. In November, 2005 applicant filed a suit of divorce against respondent No. 4 in Family Court, Meerut on the ground of cruelty which was decreed ex parte on 31.05.2006 and Part II order publication to this effect was made in his service records. After the period of expiry of appeal applicant got remarried with one Aditi Singh on 30.10.2006 and Part II order publication to this effect was also made. 5. Learned counsel further submitted that respondent No 2 filed a restoration application to restore the divorce suit in Family Court which was allowed on 28.07.2007 and ex parte decree was set aside. Thereafter, suit proceeded on merit and ultimately decreed on

14.01.2013 and, in between, two sons namely, Aashman and Vansh Vardhan and a daughter Aradhya were born to Aditi from the union of applicant and Part II order publications to this effect were also made. Respondent No. 4 has filed an appeal in Hon'ble Allahabad High Court against the decree of divorce passed on merit which is pending consideration, however, no stay of operation of decree is granted in the said appeal.

6. Learned counsel further submitted that applicant has been constantly requesting respondents No 1 to 3 since the passing of decree on merit to treat his second wife as his legally wedded wife and cause here name entered as such in service records by issuing Part II order publication and his second wife and himself have written several letters in this regard, but they (respondents 1 to 3) are doing nothing in the matter rather they have kept the matter on hold saying matter of divorce between applicant and respondent No. 4 is sub judice in appeal in the Hon'ble Allahabad High Court, hence this application.

7. Learned counsel for the respondents 1 to 3, on the other hand, submitted that answering respondents have full honour and respect to the order passed by Family Court and they are also aware that operation of the decree of divorce is not stayed in appeal pending in the Hon'ble Allahabad High Court. He submitted that after receiving information regarding decree of divorce passed by the Family Court Meerut they sought legal advice in the matter and being advised that decree being sub-judice in appeal before a superior court is not final but is subject to decision of appeal, instead of acting upon the decree they kept the same on hold till decree being final.

8. In the given situation it is admitted that respondent No 4 is the first wife of the applicant against whom a decree of divorce has been passed by the Family Court. She has filed an appeal against the decree which is

pending consideration in the Hon'ble High Court. Although there is no order in the appeal staying operation of decree passed by the Family Court, but matter being sub-judice no finality can be allached to decree unless the same is made final, and in that case marital tie between both the applicant and respondents No 4 cannot be treated finally broken so much so that applicant's second wife Aditi Singh could be regarded legally wedded wife and her name could be entered as such in applicant's service records by the answering respondents.

9. It was also submitted by learned counsel appearing for the applicant that due to answering respondents not treating applicant's wife as legally wedded wife by getting part II order published she (Aditi Singh) often gets embarrassed and humiliated in public gatherings when she visits Army Mess or club and even she does not get recognised as wife of an army officer by the AWWA which causes great mental pain and agony to her. It was also submitted that due to indifferent treatment to his wife applicant feel feared all times that in the event of any untoward incident being happened with him his wife and their children may be put to great financial hardship because of no entry of (Aditi Singh) as legally wedded wife in his service records.

10. We have given thoughtful consideration to the aforesaid submissions and we are of the considered view that it is not a case that when applicant contracted marriage with his second wife they both were not aware about the circumstances in which their marriage was solemanised. The applicant and his second wife knew very well that decree of divorce passed by the court was not final, rather it was an ex parte divorce which could be reversed and in that situation the status of their marriage would be nothing but of a void marriage, in view of Section 5 of the Hindu Marriage Act. Even today the legal position regarding divorce is that it is not final for being sub judice in the Hon'ble

High Court and in the event of appeal being allowed their marriage would be rendered void. Thus, when they solemanized the marriage taking benefit of an ex parte decree which was later set aside at the instance of first wife, and even appeal against the decree passed on merit is pending consideration before a superior court and marital tie between applicant and his first wife has not finally broken, the action taken by the answering respondents by not giving effect to the decree rather keeping the same on hold cannot be said to be bad in any manner nor respondents can be blamed for the same.

11. In view of aforesaid, we conclude that answering respondents have not committed any illegality by keeping decree of divorce passed by Family Court on hold. We also conclude that in view of facts and circumstances of case, no direction is required to be issued to respondents other than what they have taken into the matter keeping in view the status of decree. In the result, O.A. being devoid of force is liable to be dismissed.

12. Accordingly, O.A. is dismissed.

13. Pending application (s), if any, is also dismissed.

14. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

UKT/-

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

O.A. No 542 of 2017

Baliram Ram 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** 1. Heard Shri VK Pandey, learned counsel for the applicant and Shri Kaushik Chatterji, learned counsel for the respondents. 2. Learned counsel for the applicant submitted that applicant was enrolled in the army on 29.05.1971 and retired from service as Subedar Major (Sub Maj) on 30.09.2001 after rendering about 30 years of service. On 26.01.2002 he was granted rank of Honorary Lieutenant (Hony Lt). Learned counsel for the applicant submitted that applicant is entitled to pension of Hony Lt in terms of recommendation of 6th Pay Commission and Circular No 430 & 501 dated 17.01.2013. Applicant represented his case vide letters dated 24.02.2015 and 09.09.2016 for grant of pension of Hony Lt but the same was not replied by the respondents and applicant is presently getting pension of Sub Maj. 3. Learned counsel for the respondents submitted that alleged representation dated 24.02.2015 and 09.09.2016 were never received by respondents, hence not replied. He further submitted that circular No 430 and Circular No 501 are issued by the Government to provide improvement in pension to bridge the gap in pension of pre 01 Jan 2006 and post 01 Jan 2006 retiree JCOs/Ors of the Armed Forces, wherein all pension distribution authorities are delegated powers to revise pension. As regards Circular No 501 of 17.01.2013, in this circular it is clearly mentioned that :-

"These orders are applicable to the JCOs/Ors and Hony Commissioned Officer pensions of regular armed forces (including Defence Security Corps and territorial Army personnel) who were/are in receipt of the following type of pension as on 24.09.2012 but were discharged/retired prior to 01.01.2006.

(a) Service Pension.
(b) Special Pension.
(c) Ordinary Pension/mustering out Pension to Pre 01.06.2006 retirees.
(d) Invalid Pension.
(e) Service Element of Disability Pension.
(f) Service Element of War Injury Pension/Liberalised Disability Pension"

4. Learned counsel for the respondents submitted that applicant was conferred rank of Hony Lt after retirement from service. All eligible JCOs are given two chance when in service for grant of Hony Commission when on active list. Eligible JCOs who fulfill criteria and come up in merit list for grant of Hony Commission are granted on the occasion of Independence Day and Republic Day. The pay and allowances of JCOs who are granted Hony Commission when on Active List are revised as per Circular No 501 dated 17.01.2013. Those JCOs who are conferred Hony rank after retirement are not eligible for revision of pension equal to those JCOs who are granted Hony Commission when on Active List. Hence the persons who have been conferred Hony rank after retirement cannot be paid revised pension equal to that of the persons granted Hony Rank while in service. In view of above none of rights of the applicant has been violated by the respondents. As far as ACTIVE LIST and INACTIVE LIST is concerned, it is stated in Para 177 of Regulations for the Army, 1987 (Revised Edition), Vol-1, that *'JCOs who have rendered specially distinguished service, and who are serving, in the regular army, may be granted commission as honorary officers in the rank of Captain or Lieutenant'.* Since in the instant case the applicant was granted honorary commission but was only conferred honorary rank of Lieutenant after retirement, his service pension cannot be revised as equal to those JCOs who have been granted honorary commission in active service.

Thus in accordance with amendments/regulations, the applicant is not entitled for pay of Hony Lt and therefore, no financial loss has occurred to him.

5. In view of the above, it is clear that as per rule position pension of Hony Lt is applicable to those candidates who are granted Hony rank of Lt in active service and not those who are conferred Hony Lt rank after retirement. In the matter of Hony Nb Sub, Government has issued specific orders and revised the table.

6. We find that the applicant has failed to make out a case in his favour for grant of pension of Hony Lt.

7. As a result of above discussions O.A. lacks merit and deserves to be rejected.

8. Accordingly, the petition is **rejected**.

9. There shall be no order as to cost.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

UKT/-

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

O.A. No. 444 of 2017

Smt. Puja Devi Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri K.K. Misra, Ld. Counsel for the applicant and Ms. Deepti P Bajpai, Ld. Counsel for the respondents are present. Heard arguments. Judgment reserved. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 687 of 2017

Smt Sudha Devi Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri V.K. Pandey, Ld. Counsel for the applicant and Shri Anurag Mishra, Ld. Counsel for the respondents are present. Original Application is **dismissed**. For order, see our Judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 26 of 2018

Zile 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing none appears on behalf of the applicant nor there is any mention to pass over the case. Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents is present. Heard arguments of learned counsel for the respondents only. Judgment reserved. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 245 of 2018

Dharmendra Singh Tomar 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. List this case on **14.04.2021** for hearing. On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 533 of 2018

Ex Nb Sub Dhiraj Kumar Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** 1. Heard Shri K.K. Misra, Ld. Counsel for the applicant and Shri G.S. Sikarwar, Ld. Counsel for the respondents. 2. Applicant has filed present application under Section 14 of the Armed Forces Tribunal Act, 2007 and has sought following reliefs:- "(i) To quash AMC Records, letter No. 357000MP/Gen/Extn dated 28 April 2018, AMC Records, letter No 357000MP/RO(JCO) Ser-165 dated 16 Sep 2017, and AMC Records letter No 357000MP/Gen/Extn dated 11 Aug 2018 (Annexure A-3, A-4 and A-6 to OA). (ii) Direct the respondents to grant two years extension in service to the applicant w.e.f. 31 Oct 2018 (AN) with all consequential benefits of continuation in service. (iii) Any other relief which Hon'ble Court may think just and proper may be granted in favour of the applicant. (iv) Cost of the case may be allowed." 3. Brief facts of the case are that applicant was enrolled in the army on 31.10.1992. He was promoted to the rank of Naik on 02.01.1998, Havildar on 06.04.2014 and Naib Subedar on 01.05.2016. Applicant was discharged from service on completion of 26 years of service on 31.10.2018 (AN). Before retirement in April 2018, applicant submitted an application to the respondents for extension of two years service which was replied informing that screening board of extension of service has already been held in December, 2016 and he is not found eligible for extension due to award of more than two red ink entries in his service record. Thereafter, applicant submitted another representation

dated 30.07.2018 to AMC Records, Lucknow for grant of extension of two years service which was rejected vide order dated 11.08.2018. Being aggrieved, the applicant has filed present Original Application.

4. Learned counsel for the applicant submitted that as per policy in vogue red ink entries held on the records of the applicant have no bearing on the extension of service of two years to the applicant. Hence, applicant meets the extension policy criteria fully and thereby he is eligible for grant of two years extension in the rank of Naib Subedar.

5. On the other hand, learned counsel for the respondents submitted that applicant was screened for extension of service limit by Extension Service Board for the quarter ending December, 2016 in accordance with IHQ of MoD (Army) letter dated 20.09.2010 and was not found eligible for extension of service limit due to award of more than two red ink entries during entire service. He pleaded the O.A. to be dismissed being devoid of merit.

6. We have perused the records and we find that applicant is not meeting criteria as per Govt. of India, Ministry of Defence letter dated 20.09.2010 for grant of two years extension of service, hence, his prayer has no force.

7. In view of above, applicant has not been able to make his case. 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

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

O.A. No. 387 of 2019

Ex Hav (DS) Ram Prakash Shukla 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Om Prakash Kushwaha, Ld. Counsel for the applicant and Shri Anurag Mishra, Ld. Counsel for the respondents are present. Learned counsel for the respondents seeks and is allowed a week's time to file medical board proceedings of the applicant. Learned counsel for the applicant may file rejoinder affidavit, if any, before the date fixed. List this case on **23.02.2021** for hearing. On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 389 of 2019

Ex Rect Feroz Khan Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Om Prakash Kushwaha, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present. List this case on **14.04.2021** for hearing. On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 433 of 2019 with M.A. No. 94 of 2021, M.A. No. 95 of 2021 alongwith M.A. No. 770 of 2019

Gp Capt BKE Jacob Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Col Y.R. Sharma (Retd), Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present. **M.A. No. 94 of 2021** As per direction of this Tribunal, applicant has filed impleadment application to implead Air Cmde B.S. Hora, which is allowed. **M.A. No. 95 of 2021** Head. Amendment application is allowed. Let amendment be incorporated during the course of day. After incorporation of amendment, notice be issued to newly made respondents i.e. 5, 6 & 7, returnable within four weeks. List this case on **25.03.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 486 of 2019

Ex Nk Ravendra Singh Rathore 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri V.P. Pandey, Ld. Counsel for the applicant and Shri R.C. Shukla, Ld. Counsel for the respondents are present. Original Application is **allowed**. For order, see our Judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 218 of 2020

Ex Hav (Hony Nb Sub) Rajendra Kumar Chalise 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Parijaat Belaura, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents. Ld. 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 21st February, 2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, to which Ld. Counsel for the respondents has no objection. With the consent of Ld. 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. Let a copy of this order be provided to the learned Counsel for the parties. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. (A) No. 474 of 2018

Mukesh Kumar through his wife Smt Pooja Devi Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. List this case on **15.04.2021** for hearing. On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 26 of 2018

Zile 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Akash Dixit, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents. 1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:- "(i) To direct the respondents to conduct a fair and proper inquiry to find out the truth that whether the 533 Med Battalion, during Bangladesh operation between India and Pakistan in 09th and 11th December, 1971, was affiliated to 21 Rajput Regiment with the fact that whether the claim of the petitioner that he saved the life of injured soldiers in battle field and his name was recommended for Vir Chakra by Commanding Officer of 21 Rajput Regiment namely Col AS Ahlawat Beriwale (Indo-Pak War-1971). (ii) To direct the respondents to correct the AMC record on the basis of aforesaid inquiry report, if the claim of the applicant found to be correct. (iii) To pass any other order which this Hon'ble Tribunal may think just and proper in favour of the applicant. (iv) To allow this Original Application with cost. 2. The aforesaid application has been filed after elapse of 45 years for

recognition of his acts in war and for grant of gallantry award. Brief facts of the case are that having been enrolled in the army on 15.01.1966 and discharged from service on 11.11.1981 at his own request in low medical category P3 (P) on account of low backache, the applicant is in receipt of disability pension @ 50% for life w.e.f. 11.11.1981. Applicant is stated to have actively participated in Indo-Pak War 1971 and as per him, he saved lives of other wounded soldiers for which Col AS Ahlawat, the then Commanding Officer of 21 Rajput Regiment praised him and recommended his name for gallantry award, which was never received by applicant. It is also stated that two representations submitted by applicant have not been considered just because of non availability of certain documents. Hence this O.A. has been filed.

3. Learned counsel for the applicant submitted that though the applicant has taken active part in Indo-Pak War 1971, his services have not been recognized as yet. He pleaded that an inquiry be held and applicant be granted gallantry award for his acts of bravery.

4. On the other hand, learned counsel for the respondents submitted that since service documents related to applicant have been destroyed after expiry of mandatory retention period, in terms of para 595 of Regulations for the Army, 1987, therefore, at this stage, it is difficult to establish whether the applicant took active part in Indo-Pak War 1971 or not. He further submitted that the claims of applicant that 533 Medical Battalion was affiliated to 21 Rajput Regiment during Indo-Pak War 1971 and that the applicant had saved the life of injured soldiers in a war zone and that his name was recommended for Vir Chakra by Commanding Officer 21 Rajput Regiment, are all not verifiable at this belated stage. 21 Rajput Regiment, after checking their records and citations submitted for gallantry awards, have denied inclusion of name of applicant in the unit citation list forwarded after war was over. He pleaded the O.A. to be dismissed.

5. We have perused the records and replies submitted by various agencies on the subject.

6. Having heard argument of both sides at length we find that since related papers connected with applicant have been destroyed by burning after expiry

of mandatory retention period and the fact that none of the units which he served in at the time of the 1971 war, do not have any records mentioning therein his name for award of medal, we are unable to decide the present application in vacuum. 21 Rajput Regiment and AMC Records have repudiated contention of applicant in this regard.

7. In view of the above, we are of the view that applicant has not been able to make out a case for grant of gallantry award during Indo-Pak War 1971.

8. The O.A. lacks merit and is hereby **dismissed**.

9. No order as to costs.

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

(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)

O.A. No. 187 of 2020

Mahesh Prasad Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Pankaj Kumar Shukla, learned counsel for the applicant and Mrs Anju Singh, learned counsel for the respondents. 1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:- "(a) To issue/pass an order or directions to set aside/quash the order dated 09.03.1983 passed by respondents. (b) To issue/pass an order or direction to the respondents to grant of disability pension @ 20% alongwith 12% interest on arrear w.e.f. the date of discharge i.e. 10.12.1982 in light of Hon'ble Apex Court cases i.e. Sukhwinder Singh vs Union of India (Supra). (c) To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant. (d) To allow this original application with costs. 2. Brief facts of the case giving rise to this application are that applicant was enrolled in the Indian army on 23.03.1976 and was invalided out from service on 10.12.1982 after having rendered 05 years, 08 months and 17 days of service in low medical category 'EEE (Psy)'. Prior to discharge from service, applicant was brought before Invaliding Medical Board (IMB) on 08.11.1982 which

	assessed the applicant to be suffering from 'Neurosis (300/v-67)' @ 20% for life neither attributable to nor aggravated by military service (NANA). Disability pension claim preferred by applicant was rejected vide order dated 09.03.1983. The applicant was supposed to file appeal against the rejection order but the same seems to have not been preferred. Thereafter after 35 years applicant submitted representation to authorities concerned for grant of disability pension but it was denied in accordance with para 173 of Pension Regulations for the Army, 1961 (Part-I). It is in this perspective that this OA has been filed. 3. Learned counsel for the applicant submitted that the applicant was enrolled in the Army in medically and physically fit condition and there is no note in his service documents with regard to suffering from any disease prior to enrolment, therefore, any disability suffered by the applicant after joining the service should be considered as attributable to or aggravated by military service and the applicant should be entitled to disability pension. Learned counsel for the applicant further submitted that disability pension claim of the applicant has been rejected in a cavalier manner without assigning any meaningful reason. Further submission of learned counsel for the applicant is that since the aforesaid disease is due to stress and strain related rigors of military service, these should be considered as either attributable to or aggravated by military service. 4. On the other hand, learned counsel for the respondents argued that since IMB has declared the applicant's disability as NANA, he is not entitled to disability pension. His further submission is that the competent authority has rightly rejected applicant's

disability pension claim on the ground of disability being not related to military service, therefore, O.A. deserves to be dismissed.

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

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

> *"29.1. Disability pension to be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable to or aggravated by military service to be determined under the Entitlement Rules for Casualty Pensionary Awards, 1982 of Appendix II (Regulation 173).*
>
> *29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)].*
>
> *29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive*
>
> *benefit of any reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9).*
>
> *29.4. If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the*

circumstances of duty in military service [Rule 14(c)]. [pic]

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

29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons [Rule 14(b)]; and 29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions), 2002 - "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."

7. In view of the settled position of law on attributability/aggravation, we find that the RMB has denied attributability/aggravation to the applicant only by endorsing a cryptic sentence in the proceedings i.e. the disability is not related to military service. We take note that the aforesaid disability was suffered by applicant after four years of military service from the date of his enrolment while he was posted in J&K. It is intriguing to note that an individual who has served in the army for about four years and a disability, which has occurred during military service during field area, has been regarded as NANA by the IMB, is not justified in the eyes of law. It is trite law that any disability not recorded at the time of recruitment must be presumed to have been caused subsequently, and, unless proved to the contrary to be a consequences of military service. The benefit of doubt, therefore, shall be rightly extended in favour of the applicant. In the instant case, since the applicant was found to be suffering from disability when he had put in 04 years of service, it should be deemed to be aggravated by military service. We are, therefore, of the considered opinion that the benefit of

	doubt should be given to the applicant as per the Hon'ble Supreme Court judgment of ***Dharamvir Singh*** (supra) and the disability of the applicant should be considered as aggravated by military service. 8. The disability was assessed only for a period of two years and no medical records have been placed before us to indicate that it still persists nor was any Re-Survey Medical Board carried out. In view of this fact the applicant is held entitled to 20% disability pension for two years from date of discharge from service. The disability percentage cannot be rounded off at this stage as provision for rounding off of disability pension came into existence w.e.f. 01.01.1996 and applicant was invalided out in the year 1982. 9. As a result of foregoing discussion, the O.A. is **allowed**. The impugned order is set aside. The disability of applicant is held aggravated by military service. The respondents are directed to grant 20% disability pension to applicant for two years from the date of discharge from service. The respondents are further directed to hold applicant's Re-survey Medical Board (RSMB) to assess entitlement of disability element beyond these two years. However, it is made clear that even if the disability falls below 20% after holding of RSMB, the applicant would still be eligible for continuation of service element of disability pension in accordance with Govt policy promulgated based on the recommendations of 3rd CPC and para 186 of Pension Regulations for the Army (Part-I). 10. This entire exercise shall be completed by the respondents within four months from today. 11. Default will invite interest @ 8% p.a. 12. No order as to costs.

	13. Pending applications, if any, are disposed off. **(Vice Admiral Abhay Raghunath Karve)** **Member (A)** rathore **(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. 137 of 2019 with M.A. No. 276 of 2020

Mukesh 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**
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, learned counsel for the applicant and Shri Adesh Kumar Gupta, learned counsel for the respondents are present. As prayed by learned counsel for the respondents, one week time is granted to file objection against amendment application. List on **25.02.2021**. **(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)

O.A. No. 168 of 2019

Ex Dfr Jagir 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
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri SG Singh, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents are present. Shri RK Tiwari, Accounts Officer CDA (P), Allahabad is also present and he submits that respondents be provided bank details to check whether amount has been credited to applicant's account. Learned counsel for the applicant to provide bank details to Shri RK Tiwari within a week. List on **04.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 97 of 2020 with M.A. No. 811 of 2019

Ex Hav (Hony Nb Sub) Bhagwan 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**
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Om Prakash Kushwaha, learned counsel for the applicant and Shri Rajiv Pandey, learned counsel for the respondents are present. Counter affidavit and supplementary counter affidavit filed by the respondents are taken on record. Learned counsel for the respondents submitted that applicant's grievances raised in O.A. have been redressed by the respondents and arrears of pension amounting to Rs 2,35,220/- has been credited in applicant's account in July, 2020. He also submitted that applicant is getting the pension of Hony Nb Sub @ Rs, 21,653/- pm regularly. In response, learned counsel for the applicant submitted that a week's time be given to him to check the aforesaid payment, which is allowed. List on **25.02.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 320 of 2020

Ex Sep Anil Kumar Singh Gaur 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**
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Manoj Kumar Awasthi, Advocate holding brief for Shri JN Mishra, learned counsel for the applicant and Shri Rajiv Pandey, learned counsel for the respondents are present. Counter affidavit filed by the respondents is taken on record. As per office report, steps have been taken and notice has been issued to respondent No. 4. List on **03.03.2021**. **(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)

O.A. No. 26 of 2021

Col Naveen Ahlawat 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**
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri SS Rajawat, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents are present. Judgment reserved. **(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)

R.A. No. 1 of 2021 Inre O.A. No. 160 of 2020

Smt Roopa Singh Teveotia, W/O late
Ex Hav Aman Pal Singh Teveotia 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**
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Om Prakash Kushwaha, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present. Learned counsel for the applicant has not yet served copy of review application to learned counsel for the respondents. Let copy be served by today itself failing which review application shall stand dismissed without any reference. On receipt of copy, respondents shall file objection, if any, within two weeks. List on **01.03.2021**. **(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)

O.A. No. 274 of 2016

Rajendra Prasad 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**
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri BK Singh, learned counsel for the applicant and Shri Bipin Kumar Singh, learned counsel for the respondents are present. Pleadings are complete and the case is ripe for hearing. List on **12.04.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve) 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)

O.A. No. 386 of 2017

Ashok Kumar yadav Applicant
By Legal Practitioner for the Applicant

Versus

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

Notes of the Registry	**Orders of the Tribunal**
	12.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Rohit Kumar, learned counsel for the applicant and Shri RC Shukla, learned counsel for the respondents are present. Pleadings are complete and the case is ripe for hearing. List on **13.04.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore