

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

O.A. No. 229 of 2019

Ex. Sub. JC No. 209720 M Shambhu Nath Jha
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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents.</p> <p style="text-align: center;">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:-</p> <p style="text-align: center;">(i) <i>Direct the Respondents to consider ROUNDING-OFF of disability Pension from 30% to 50% from 02/06/2008 in light of the present rounding off policy as applicable and issue fresh PPO with all previous balance with interest.</i></p> <p style="text-align: center;">(ii) <i>To pass order which their lordships may deem fit and proper in the existing facts and circumstances of the case.</i></p> <p style="text-align: center;">(iii) <i>Allow this application with cost.</i></p> <p>Briefly stated facts of the case are that the applicant was enrolled in Army Medical Corps of Indian Army on 05.02.1970 and was discharged with effect from 01.03.1998 in low medical category. The Release Medical Board identified his disability as 'LUMBER SPONDYLOSIS WITH SACROLITIS' and assessed it @ 30% for two years, aggravated to military service. The applicant was granted normal and disability pension @ 30% after the discharge from service for two years. Accordingly, P.P.O. was issued by the Principal Controller of Defence Account (Pension), Allahabad. The Resurvey Medical Board (R.S.M.B.) was held in June, 2008 assessed applicant's disability @30% for life. Accordingly, Principal Controller of Defence Accounts (Pension), Allahabad had granted disability element @30% for life with effect from 02.06.2008. The applicant preferred an application for benefit of rounding off disability pension from 30% to 50%, which was denied by the respondents vide order 22.05.2018 (Annexure A-13 of Counter Affidavit). Presently the applicant is in receipt of 30% disability pension for life and has moved this Original</p>

Application for the benefit of rounding off of disability element.

Ld. Counsel for the applicant argued that since the applicant is already in receipt of 30% disability element for life, therefore, in view of judgment in **O.A. No. 328 of 2016, Colonel Dharam Raj Singh (Retd)**, decided by Armed Forces Tribunal, Regional Bench, Lucknow on 07.09.2016 and Hon'ble Apex Court judgment in the case of **Union of India and Ors vs Ram Avtar & ors** (Civil appeal No. 418 of 2012 decided on 10th December 2014), the applicant is also entitled to benefit of rounding off of disability element @ 50% for life.

On the other hand, though Ld. Counsel for the respondents conceded receipt of 30% disability pension by the applicant but contended that the applicant is not entitled to the benefit of rounding off of disability pension on the ground that the applicant's services were not cut short as he was not invalided out on account of his disability. In the instant case the applicant was discharged from service on completion of his terms of engagement, therefore, the Ld. Counsel claimed that he is not eligible for the benefit of rounding off.

We have heard Ld. Counsel for the parties and perused the material placed on record. The only question which needs to be answered is that whether the applicant is entitled for the benefit of rounding off of his disability pension?

The law on the point of rounding off of disability pension is no more RES INTEGRA in view of Hon'ble Supreme Court judgment in the case of **Union of India and Ors vs Ram Avtar & ors** (Civil appeal No 418 of 2012 decided on 10th December 2014) wherein the Hon'ble Apex Court has nodded in disapproval of the policy of the Government of India in granting the benefit of rounding off of disability pension only to the personnel who have been invalided out of service and denying the same to the personnel who have retired on attaining the age of superannuation or on completion of their tenure of engagement. The relevant portion of the decision is excerpted below:-

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

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

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

7. The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting

appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension.

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

In the instant case, there is no dispute that the applicant is in receipt of 30% disability element for life. This fact has also been accepted by the respondents and is also clearly indicated by the P.P.O. attached at page 13 of the Original Application. Thus in view of the settled law on this matter we are of the considered opinion that the applicant is entitled the benefit of rounding off.

It may be observed that claim for pension is based on continuing wrong and relief can be granted if such continuing wrong creates a continuing source of injury. In the case of ***Shiv Dass vs. Union of India***, reported in 2007 (3) SLR 445, para-9, Hon'ble Apex Court has observed:

"In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years. The High Court did not examine whether on merit appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone."

As observed in the preceding paragraphs, delay in filing the O.A. has been condoned by this Tribunal vide order dated 26.03.2019, as such, in view of the decision of Hon'ble Supreme Court in the case of ***Shiv Dass*** (supra), we are of the considered view that benefit of rounding off of disability element @30% for life to be rounded off to 50% for life may be made applicable to the applicant from three preceding years from the date of filing of the O.A.

In view of the above, the **Original Application No. 229 of 2019** deserves to be allowed, hence **allowed**. The order 22.05.2018, enclosed at Annexure R-13 of Counter Affidavit, is set aside. The applicant is entitled to the benefit of rounding off of disability element from 30% for life to 50% for life with effect from three years prior to the date of filing of this Original Application. The date of filing of this Original Application is 19.11.2018. The respondents are directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 9% per annum till actual payment.

No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Form No. 4
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 69 of 2019 Inre : O.A. No. 583 of 2017

Ex. Sep. Ajay Kumar Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Col. Rakesh Johri (Retd.), Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Although affidavit of compliance has been filed by the respondents but they have not served its copy to the applicant's Counsel. They are, therefore, directed to serve copy of affidavit of compliance to the applicant's Counsel by today itself.</p> <p style="text-align: center;">Applicant on receipt of copy of affidavit of compliance may file objection, if any, within two weeks.</p> <p style="text-align: center;">List on 16.02.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 424 of 2020 Inre : O.A. No. (Nil) of 2020

Ex. Hav. Raghubansh Chandra Verma
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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Dharmesh Sinha, Ld. Counsel for the applicant and Shri J.N. Mishra, Ld. Counsel for the respondents are present.</p> <p>Better affidavit filed by the applicant in support of delay condonation application is taken on record.</p> <p>Ld. Counsel for the respondents seeks and is allowed two weeks time to file objection/Counter Affidavit.</p> <p>List on 16.02.2021.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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Court No.1 (E. Court)

M.A. No. 1826 of 2017 Inre : O.A. No. (Nil) of 2017

Rajesh Kumar Maurya Applicant
By Legal Practitioner for the Applicant

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Diwakar Singh, Ld. Counsel for the applicant and Shri R.C. Shukla, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">As prayed by the Ld. Counsel for the applicant, list on 22.02.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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Court No.1 (E. Court)

M.A. No. 981 of 2019 Inre : O.A. No. (Nil) of 2019

Ex. Nb. Sub. (ACP) Vishun Dayal
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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri K.P. Datta, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents.</p> <p>The Original Application has been filed with delay of 03 years, 07 months and 17 days.</p> <p>The submission of Ld. Counsel for the applicant is that delay in filing Original Application is not deliberate, but on account of facts stated in affidavit filed in support of application.</p> <p>Ld. Counsel for the respondents has opposed on the ground that explanation offered for condonation of delay is not satisfactory.</p> <p>We have gone through affidavit filed in support of application for condonation of delay and find that grounds stated therein are genuine and sufficient.</p> <p>As such, delay in filing application is condoned. Application stands decided accordingly.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 51 of 2021</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 07.04.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 15.04.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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Court No.1 (E. Court)

EX-A/29 of 2018 Inre T.A. No. 837 of 2010

Dinesh Singh Kushwaha

Petitioner

By Legal Practitioner for the Petitioner

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R Chandra, learned counsel for the petitioner and Shri DK Pandey, learned counsel for the respondents are present.</p> <p>During the course of hearing learned counsel for the applicant admitted that order under execution has been fully complied with as applicant has received PPO of service element.</p> <p>Accordingly, execution application is dismissed in full and final satisfaction.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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Court No.1 (E. Court)

**EX-A/80 of 2018 with M.A. No. 439 & 440 of 2020 Inre R.A. No 17 of 2011 Inre T.A.
No. 288 of 2010**

Chhote Lal Petitioner
By Legal Practitioner for the Petitioner

Union of India & Others Respondents
By Legal Practitioner for Respondents

Versus

Notes of the Registry	Orders of the Tribunal
	<p><u>14.01.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;"><u>M.A. No. 439 of 2020 & M.A. No. 440 of 2020</u></p> <p>Heard Shri R Chandra, learned counsel for the petitioner and Shri RC Shukla, learned counsel for the respondents are present.</p> <p>During the course of hearing Shri RC Shukla, learned counsel for the respondents admitted that after the death of deceased applicant, Smt Darko Devi is being paid family pension.</p> <p>In view of the above substitution application is allowed.</p> <p>Let substitution be made as prayed.</p> <p><u>EX-A/80 of 2018</u></p> <p>Learned counsel for the respondents submitted that order under execution has been fully complied with. He also submitted that the said order being complied with before imposition of cost, order regarding imposition of cost be withdrawn. However, no affidavit of compliance has been filed.</p> <p>Respondents are directed to file affidavit of compliance annexing therewith all documents regarding execution of the order within two weeks from today after serving its copy to learned counsel for the applicant who may file objection, if any, within a week.</p> <p style="text-align: center;">List on 23.02.2021.</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
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ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

EX-A/50 of 2020 Inre O.A. No. 69 of 2018

Smt Meera Devi W/O (Late) Gnr Arun 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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R Chandra, learned counsel for the applicants and Shri Bipin Kumar Singh, learned counsel for the respondents are present.</p> <p>Affidavit of compliance filed by the respondents is taken on record.</p> <p>On the basis of copy of PPO received, Shri R Chandra, learned counsel for the applicant submits that order under execution seems to be complied with.</p> <p>Accordingly, execution application is dismissed in full and final satisfaction.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

EX-A/34 of 2020 Inre O.A. No. 187 of 2019

Ex Hav Raut Dharampal Nikanthrao
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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R Chandra, learned counsel for the applicants and Shri Adesh Kumar Gupta, learned counsel for the respondents are present.</p> <p>Capt Priyanka Rathore, Departmental Representative is also present and she submits that four weeks further time be granted to respondents to decide the first appeal preferred by the applicant.</p> <p>As prayed and as a last chance, respondents are granted four weeks further time to decide first appeal and to file affidavit of compliance.</p> <p>List on 04.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>rathore</p>

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

EX-A/194 of 2017 Inre O.A. No. 99 of 2016

Kishan 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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri SC Kushwaha, learned counsel for the applicant and Shri Kaushik Chatterji, learned counsel for the respondents are present.</p> <p>During the course of hearing Shri SC Kushwaha, learned counsel for the respondents submitted that he has just received a letter from the bank concerned regarding payment of arrears to the applicant. He further submitted that to bring the arrears on record, a week time is required, which is allowed.</p> <p>Let affidavit of compliance be filed within a week, as prayed.</p> <p>List on 04.02.2021.</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
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No 204 of 2020 with M.A. No. 197 of 2020

Ex Nk Brijesh Yadav
 By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
 By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>14.01.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Shailendra Kumar Singh, learned counsel for the petitioner and Mrs Anju Singh, learned counsel for the respondents are present.</p> <p>During the course of hearing, learned counsel for the applicant admitted that grievances raised in O.A. have been addressed by the respondents.</p> <p>In view of above, application is dismissed being infructuous.</p> <p style="display: flex; justify-content: space-around; margin-top: 20px;"> (Vice Admiral Abhay Raghunath Karve) Member (A) (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. 585 of 2018

Ex Dfr Jashwant 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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri VP Pandey, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present.</p> <p style="text-align: center;">Learned counsel for the applicant submitted that applicant does not intend to file rejoinder affidavit.</p> <p style="text-align: center;">List on 26.04.2021 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>

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

M.A. No. 2046 of 2017 Inre O.A. No. (Nil) of 2017

Vishram Singh Rajput 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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Vinay Pandey, learned amicus curiae counsel for the applicant and Shri Kaushik Chatterji, learned counsel for the respondents are present.</p> <p>Applicant Vishram Singh Rajput is also present in person and he submitted that he had gone to Hon'ble High Court Allahabad to obtain copy of the writ petition but could not get the same. He further submitted that he has filed the present application for the grant of reservist pension for which only 09 years regular service is required and not 15 years as respondents say.</p> <p>In reply to above, learned counsel for the respondents submitted that sometime be given to him to seek instructions, which is allowed.</p> <p>Let instructions be sought within two weeks.</p> <p>List on 03.03.3021.</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
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex-A/55 of 2018 Inre O. No. 316 of 2016

Jitender Ram
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Yashpal Singh, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents are present.</p> <p>Learned counsel for the respondents submitted that memo of appearance as well as affidavit of compliance filed by him be taken on record, which is allowed.</p> <p>Registry is directed to show the name of Shri Amit Jaiswal as learned counsel for the respondents in the next cause list.</p> <p>Regarding cost imposed at different dates, Shri Amit Jaiswal, learned counsel for the respondents submitted that the entire cost has been deposited.</p> <p>As regards disability pension, submission of learned counsel for the applicant is that the applicant is getting disability element only and no service element is being paid to him.</p> <p>Respondents are directed to clarify their position regarding non payment of service element within two weeks.</p> <p>List on 24.02.2021.</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)

T.A. No. 64 of 2016

Ex L Hav Surendra Vavu

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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri Mohd Shariq Khan, learned counsel for the petitioner and Shri Yogesh Kesarwani, learned counsel for the respondents.</p> <p>A preliminary objection has been raised by learned counsel for the respondents that in view of Section 3 (o) (iv) the of Armed Forces Tribunal Act, 2007, only orders relating to dismissal or imprisonment for more than three months are actionable, not every order. He further submitted that the present T.A. has been filed with regard to an order passed in Summary Court Martial sentencing the applicant for 1^{1/2} months rigorous imprisonment and for reduction in his rank, which is not actionable.</p> <p>Per contra, learned counsel for the petitioner submitted that Section 15 of the AFT Act, 2007 clearly states that any order passed by a court martial is appealable and in view of that the present T.A. is maintainable despite punishment being not of dismissal or imprisonment of more than three months.</p> <p>Sub section (1) of Section 15 of the AFT Act, 2007 deals with jurisdiction, powers and authority in matters of appeal against court martial and it reads that a Tribunal shall have all the jurisdiction, powers and authority exercisable under the Act in relation to an appeal against any order, decision, finding or sentence passed by a court-martial or any matter connected therewith or incidental thereto.</p> <p>The Hon'ble Delhi High Court in the case of <i>Brij Lal Kumar & Others vs Union of India & Others</i> in (WP(c) 98 of 2020), decided on 24.11.2020 has held that any order passed by a court-martial is appealable under sub section (1) of Section 15 of the Armed Forces Tribunal Act, 2007.</p> <p>In view of the aforesaid, we hold that present T.A. being filed against the order of reduction in rank and one and half months imprisonment is maintainable.</p> <p>Pleadings have been exchanged between the parties and the case is ripe for hearing.</p> <p>List on 25.03.2021 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>

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

O.A. No. 163 of 2019

Bijay Shankar Singh By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>14.01.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align:center">Heard Shri V.P. Pandey, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p style="text-align:center">Original Application is allowed.</p> <p style="text-align:center">For order, see our judgment passed on separate sheets.</p> <p style="text-align:center">Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p style="text-align:left">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. 304 of 2019

Ex Hav (Hony Nb Sub) Jitendra Prasad Gurung
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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri V.P. Pandey, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Shri V.P. Pandey, 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 Shri Ashish Kumar Singh, Ld. Counsel for the respondents has no objection.</p> <p style="text-align: center;">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.</p> <p style="text-align: center;">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>SB</p>

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

Court No.1 (E. Court)

M.A. No. 194 of 2019 Inre O.A. No. Nil of 2019

Ex Hav (Hony Nb Sub) Gaya 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>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri Virendra Kumar Gupta, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">There is delay of 09 years, 02 months & 05 days in filing Original Application.</p> <p style="text-align: center;">Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application.</p> <p style="text-align: center;">Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation.</p> <p style="text-align: center;">Considering that in pensionary matters bar of limitation is not applicable and cause shown for the delay, if any, is sufficient, delay is liable to be condoned.</p> <p style="text-align: center;">Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p style="text-align: center;">Let Original Application be registered.</p> <p><u>O.A. No. 54 of 2021</u></p> <p style="text-align: center;">It is a fit case for adjudication.</p> <p style="text-align: center;">Admit.</p> <p style="text-align: center;">Shri Virendra Kumar Gupta, 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 Shri Shyam Singh, Ld. Counsel for the respondents has no objection.</p>

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)
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. 268 of 2016

Ex Sep Vinod Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Rajput Regiment Abhilekh Karyalaya & anothers
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Shri Sunil Sharma, 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 16.04.2021 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. 677 of 2017

Dev Sharan Mishra
By Legal Practitioner for the Applicant

Applicant

Versus

Chief of Army Staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri S.K. Singh, 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 19.04.2021 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) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p>

SB

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

Court No.1

O.A. No. 248 of 2018

Shyam Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Chief of Army Staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>14.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents alongwith Capt Priyanka Rathore, Departmental Representative are present.</p> <p>During the course of hearing our attention was drawn to supplementary counter affidavit filed by the respondents alongwith which only page 4 of the Review Medical Board proceedings has been filed, not the entire report.</p> <p>Respondents are, therefore, directed to file complete report of Review Medical Board proceedings on affidavit within a week after serving its copy to learned counsel for the applicant.</p> <p>List on 22.01.2021 for hearing.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

