

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

O.A. No. 193 of 2020

Ex. Hav. Jannat Hussain
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>17.03.2021</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 Virat Anand Singh, 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>AKD/-</p>

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

O.A. No. 470 of 2019

Ex. Sub. Sushil 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>17.03.2021</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 Manoj Kumar Awasthi, Ld. Counsel for the applicant and Shri R.C. Shukla, Ld. Counsel for the respondents are present.</p> <p>Original Application is allowed.</p> <p>For order, see our Judgment passed on separate sheets.</p> <p>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 317 of 2019

Ex. MWO Mithilesh Nandani Sharan 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>17.03.2021</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 Ms. Kavita Singh, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Original Application is allowed.</p> <p style="text-align: center;">For order, see our Judgment passed on separate sheets.</p> <p style="text-align: center;">Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 357 of 2020

Ex. Sub/AEC Hirdai Narain Kushwaha (Retd.)
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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant and Dr. Gyan Singh, Ld. Counsel for the respondents.</p> <p>2. 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="padding-left: 40px;"><i>A. To issue/pass an order or directions to the respondents to grant benefit of rounding/broadbanding off disability pension from date of discharge i.e. 31.05.2012 @20% to @50% along with 12% interest on arrear in the light of judgment and order of Hon'ble Apex court and Hon'ble AFT (RB), Chandigarh and the Govt. of India letter dated 31.01.2001.</i></p> <p style="padding-left: 40px;"><i>B. To issue pass any other order or directions as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.</i></p> <p style="padding-left: 40px;"><i>C. To allow this original application with costs"</i></p> <p>3. Briefly stated facts of the case are that the applicant was enrolled in Indian Army on 02.05.1985 and was discharged from service on 31.05.2012 (AN) (AN) in low medical category on completion of terms of engagement under Rule 13(3) Item I (i) (a) of the Army Rules, 1954. The Release Medical Board identified his disability "TYPE II DIABETES MELLITUS" and assessed it @ 20% for life and accordingly, P.P.O. was issued. This Original Application for grant of benefit of rounding off of disability pension from 20% to 50% for life.</p> <p>4. Ld. Counsel for the applicant argued that since the applicant is already in receipt of 20% disability element for life, therefore, in view of the Hon'ble Apex Court judgment in the case of <i>Union of India and Ors vs Ram Avtar & ors</i> (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.</p>

5. On the other hand, though Ld. Counsel for the respondents conceded receipt of 20% 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 invalidated 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.

6. The law on the point of rounding off of disability pension is no more RES INTEGRA in view of the 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 invalidated 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."

7. In the instant case, there is no dispute that applicant is in receipt of 20% disability element for life as this fact has been accepted by the respondents. In view of the settled law on this matter, we are of the considered opinion that the applicant is entitled to the benefit of rounding off to 50% for life with effect from 01.01.2006, however, arrears shall be restricted to three years only from the date original application is filed.

8. In view of the above, the Original Application No. 357 of 2020 is allowed. The applicant is held entitled to the benefit of rounding off of disability element from 20% for life to 50% for life with effect from three years prior to the date of filing of Original Application. The date of filing of Original Application is

13.10.2020. The respondents are directed to give effect to this order within a period of four months from the date applicant submits mandatory documents alongwith certified copy of this order. Defaults will invite interest @ 8% per annum from the due date till actual payment.

9. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/-

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

O.A. No. 194 of 2021

Madhusudhana PS
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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Shri R.K.S. Chauhan, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align: center;">Heard Shri Vinay Pandey, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents.</p> <p style="text-align: center;">During the course of hearing Ld. Counsel for the applicant submitted that Original Application may be dismissed as not pressed with liberty to file afresh before the appropriate forum, which is allowed.</p> <p style="text-align: center;">Accordingly, Original Application is dismissed as not pressed with liberty to file afresh before the appropriate forum.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 192 of 2021

Ex. Nk. Lakhwinder 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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: justify;">Shri Devesh Kumar, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align: justify;">On the case being taken for hearing Shri Ashok Kumar, Ld. Counsel for the applicant and Shri Devesh Kumar, Ld. Counsel for the respondents are present.</p> <p style="text-align: justify;">Shri Ashok Kumar, Ld. Counsel for the applicant submits that Original Application may be disposed off with direction to the respondents to decide the applicant's Statutory Appeal dated 21.07.2020, which is pending with the respondents, to which Ld. Counsel for the respondents has no objection.</p> <p style="text-align: justify;">With the consent of Ld. Counsel for the parties, we hereby dispose off the Original Application finally with the direction to the respondents to decide the applicant's Statutory Appeal dated 21.07.2020, contained as Annexure No. A-1 of Original Application, by a speaking and reasoned order in accordance with law, if not already decided, within a period of four months from the date of receipt of copy of this order and communicate the decision to the applicant accordingly.</p> <p style="text-align: justify;">Let a copy of this order be provided to the learned Counsel for the parties.</p> <p style="text-align: justify;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: justify;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p style="text-align: left;">AKD/-</p>	

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

M.A. No. 198 of 2021 Inre : O.A. No. (Nil) of 2021

Ex. JWO Ram Naresh 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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Shri Bipin Kumar Singh, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant and Shri Bipin Kumar Singh, Ld. Counsel for the respondents.</p> <p>The Original Application has been filed with delay of 17 years, 09 months and 13 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 208 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 11.05.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 28.05.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 193 of 2021

Sub (Nursing Tech) Suresh Shirahatti
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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Shri Ashish Agnihotri, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri K.K. Singh Bisht , Ld. Counsel for the applicant and Shri Ashish Agnihotri, Ld. Counsel for the respondents.</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 11.05.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 06.07.2021.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align:center">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 206 of 2021 Inre : O.A. No. (Nil) of 2021

Ex. MWO (HFO) Chitranjan 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>17.03.2021</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>Ms. Kavita Mishra, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri Pankaj Kumar Shukla and Shri Rahul Chaurasiya, Ld. Counsel for the applicant and Ms. Kavita Mishra, Ld. Counsel for the respondents.</p> <p>The Original Application has been filed with delay of 02 years, 07 months and 04 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 210 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 28.05.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 06.07.2021.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 207 of 2021 Inre : O.A. No. (Nil) of 2021

Ex. Nk. Vinod Singh 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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Shri Sunil Sharma, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri Rohit Kumar, Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondents.</p> <p>The Original Application has been filed with delay of 10 years, 09 months and 14 days.</p> <p>The submission of Ld. Counsel for the applicant is that delay in filing Original Application is not deliberate, but for the reasons 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. 209 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 28.05.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 06.07.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 191 of 2021

Ex. MR (Chief) Pradeep Singh Sengar
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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Shri Arun Kumar Sahu, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align: center;">Heard Shri Jitendra Singh and Ms. Purnima Singh, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Shri Ashok Kumar, Ld. Counsel for the applicant submits that Original Application may be disposed off with direction to the respondents to decide the applicant's First Appeal dated 31.03.2020 and Supplementary Appeal dated 31.10.2020, which is pending with the respondents, to which 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 off the Original Application finally with the direction to the respondents to decide the applicant's First Appeal dated 31.03.2020 and Supplementary Appeal dated 31.10.2020, contained as Annexure Nos. 6 and 7 of Original Application, by a speaking and reasoned order in accordance with law, if not already decided, within a period of four months from the date of receipt of copy of this order and communicate the decision to the applicant accordingly.</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) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 8 of 2021 Inre : O.A. No. 282 of 2016

Varun Kumar Pandey
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>17.03.2021</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>Dr. Shailendra Sharma Atal, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p>On the case being taken up for hearing Col. A.K. Srivastava (Retd.), Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>As prayed, Ld. Counsel for the respondents is allowed four weeks time to seek instructions in the matter from the appropriate authorities and apprise the Tribunal.</p> <p>List on 07.05.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 199 of 2021 Inre : Addl. Ex. A. 84 of 2019, Ex. A. No. 181 of 2017
Inre : O.A. No. 174 of 2016

Kailash 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>17.03.2021</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>Dr. Shailendra Sharma Atal, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p>On the case being taken up for hearing Col. A.K. Srivastava (Retd.), Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p><u>M.A. No. 199 of 2021</u></p> <p>For the reasons stated in affidavit filed in support of recall application, recall application is allowed and the order dated 10.02.2021 is recalled.</p> <p><u>Ex. A. No. 84 of 2019 and Ex. A. No. 181 of 2017</u></p> <p>List on 12.05.2021 .</p> <p style="display: flex; justify-content: space-around;">(Vice Admiral Abhay Raghunath Karve) Member (A)(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 204 of 2021 Inre : O.A. No. 287 of 2019

Aftab Alam

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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Shri G.S. Sikarwar, Advocate filed power today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align: center;">On the case being taken up for hearing Shri K.K. Singh Bisht, Advocate holding brief of Shri V.P. Pandey, Ld. Counsel for the applicant and Shri G.S. Sikarwar, Ld. Counsel for the respondents are present.</p> <p><u>M.A. No. 204 of 2021</u></p> <p style="text-align: center;">For the reasons stated in affidavit filed in support of correction application, correction application is allowed.</p> <p style="text-align: center;">Let in the order dated 26.02.2019 passed in Original Application No.287 of 2019 service number of applicant be corrected as '129334-T' in place of 129323-T.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 215 of 2018 Inre : T.A. No. 75 of 2011

Ex. Swr. Ashok 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>17.03.2021</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 Bachchan Singh, Ld. Counsel for the applicant and Dr. S.N. Pandey, Ld. Counsel for the respondents are present.</p> <p>Affidavit of compliance and supplementary affidavit of compliance filed by the respondents are taken on record.</p> <p>It is submitted by the Ld. Counsel for the respondents that order under execution has been fully complied with, therefore, Execution Application be dismissed being infructuous.</p> <p>On 04.10.2017 this Tribunal had passed the following order in Transferred Application :-</p> <p style="text-align: center;"><i>“28. T.A. is accordingly allowed. The impugned order of dismissal from service and sentence of one year rigorous sentence dated 06.02.2006 are set aside. Consequences to follow. The entire exercise shall be completed within a period of four months from the date of presentation of a certified copy of this order.</i></p> <p style="text-align: center;"><i>The punishment of one rigorous imprisonment was set off by the respondents, as such, no further orders are being passed on this count.”</i></p> <p>Since impugned order of dismissal from service and sentence of one year rigorous sentence dated 06.02.2006 was set aside and ordered “Consequences to follow” we are of the opinion that applicant is entitled for all consequential benefits i.e. retiral benefits and Pay and Allowances which includes Basic Pay, Grade Pay, Military Service Pay and Dearness Allowance for the period he was not in service.</p>

The copy of P.P.O. filed along with affidavit of compliance shows that only ordinary service pension has been provided to the applicant from the date of discharge and no pay and allowances have been provided to him for the period he was out from service.

Respondents are, therefore, directed to issue a Corrigendum P.P.O. mentioning therein the arrears of pay and allowances which includes Basic Pay, Grade Pay, Military Service Pay and Dearness Allowance for the period applicant was out from service also.

Let this exercise be done within four weeks from today and a supplementary affidavit of compliance be filed accordingly.

List on **24.05.2021**.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/-

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

Ex. A. No. 27 of 2020 Inre : O.A. No. 240 of 2014

Ex. Sub. Dvr. (MT) Mahender 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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">As prayed by the Ld. Counsel for the respondents, three weeks further time is granted to file affidavit of compliance.</p> <p style="text-align: center;">List on 13.05.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 1989 of 2018 Inre : O.A. No. (Nil) of 2018

Ex. Sep. Laxman 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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col. B.P. Singh (Retd.), Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>Objection to the delay condonation has been filed by the Ld. Counsel for the respondents today in the Court and the same is taken on record.</p> <p>Heard Ld. Counsel of both sides.</p> <p>There is a delay of 28 years, 11 months and 26 days in filing Original Application.</p> <p>Submission of Ld. Counsel for the applicant is that immediately after being illegally discharged from service on 08.06.1989 applicant got mentally sick and remained under continuous treatment. He further submitted that after recovering from mental sickness the applicant consulted Col. S.P. Guleria (Retd.), Advocate to process his case, who sent his petition on 14.07.2005 addressed to the Chief of the Army Staff against his illegal discharge and for providing relevant documents to him but nothing was done in his matter. Another petition dated 17.09.2018 written by Col. B.P. Singh (Retd.), Advocate to expedite the matter. Earlier too, Mercy Petitions dated 19.12.2009 and 01.09.2010 addressed to GOC-in-C Eastern Command was given which had been rejected vide their order dated 25.03.2011. He further submitted that applicant kept writing letters to the concerned authorities for the redressal of his grievance and also for providing necessary documents, but when nothing was done in the matter he filed the instant application. Thus, he submitted that delay in filing application is not deliberate but on account of the aforesaid reasons.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer and submitted that applicant has failed to explain long delay of more than 28 years in filing Original Application.</p>

Upon hearing submissions of Ld. Counsel of both sides and considering the facts and circumstances of the case, we find that cause shown for condonation of delay is sufficient.

Accordingly, we **condone** the delay.

Let Original Application be registered.

O.A. No. 211 of 2021

It is a fit case for adjudication.

Admit.

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.

List the matter before Registrar on **28.05.2021** for exchange of pleadings.

List the matter before Tribunal on **06.07.2021**.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/-

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

M.A. No. 16 of 2019 Inre O.A. No. (Nil) of 2019

Ex Sep Pappu 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>17.03.2021</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 none appears on behalf of the applicant.</p> <p>Shri DK Pandey, learned counsel for the respondents is present.</p> <p>Notice issued to respondent No. 6 has received back unserved with remarks that he does not reside on the address given in the notice.</p> <p>Applicant is directed to furnish present address of respondent No. 6 within two weeks and to file copy of the impugned order also within the aforesaid period.</p> <p>List on 20.05.2021.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

M.A. No. 77 of 2020 Inre O.A. No. (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
	<p><u>17.03.2021</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 Gyan Singh Chauhan and Shri KB Singh, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the applicant, list on 29.04.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

M.A. No. 82 of 2021 Inre O.A. No. (Nil) of 2021

Ex Hav Kiranvir 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>17.03.2021</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 KK Misra, learned counsel for the applicant and Shri Rajesh Shukla, learned counsel for the respondents are present.</p> <p>Objection to delay condonation application filed in Court by learned counsel for the respondents is taken on record.</p> <p><u>M.A. No. 82 of 2021</u></p> <p>Heard.</p> <p>There is a delay of 14 years, 04 months and 03 days in filing application. Submission of learned counsel for the applicant is that delay in filing of Original Application is not deliberate, but on account of reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that cause shown for the delay is not sufficient.</p> <p>Considering the facts and circumstances of the case, we find that cause shown is sufficient.</p> <p>Accordingly, delay is condoned.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 212 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 this case on 28.05.2021 before the Registrar Court for exchange of pleadings and thereafter list on 07.07.2021 before Tribunal for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

M.A. No. 141 of 2021 Inre O.A. No. 85 of 2019

Ex Nb Sub Ram Prasad
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.03.2021</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 Vijay Kumar Pandey, learned counsel for the applicant and Shri Anurag Mishra, learned counsel for the respondents are present.</p> <p><u>M.A. No. 141 of 2021</u></p> <p>This is an application for leave to appeal.</p> <p>Heard Ld. Counsel for the parties. Ld. Counsel Shri Anurag Mishra submits that he does not intend to file objection.</p> <p>After hearing Ld. Counsel for the parties, we do not find any ground where question of public importance is involved to grant leave to appeal. In view of statutory provision contained in Section 31 of the Armed Forces Tribunal Act, 2007, we also find that no point of law of general importance is involved, which may call for grant of leave to appeal to the applicant.</p> <p>Accordingly, application lacks merit and is rejected.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(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. 27 of 2019

Girish Chandra 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>17.03.2021</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 JN Mishra, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents.</p> <p>Shri JN Mishra, learned counsel for the applicant submits that Original Application may be disposed off with direction to the respondents to revise the pension of applicant in terms of letter No.1(13)/2016/D (Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, to which Dr. Shailendra Sharma Atal, learned counsel for the respondents has no objection.</p> <p>With the consent of learned counsel for the parties, we hereby dispose of the Original Application finally with the direction to the respondents to revise the pension of applicant in terms of letter No. 1(13)/2016/D (Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, within a period of three months from the date of receipt of copy of this order and communicate to the applicant accordingly after verifying the documents.</p> <p>Let a copy of this order be provided to the learned counsel for the parties.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 565 of 2019

Smt Neetu Bhargaw @ Neetu Devi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.03.2021</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 Singhand Ravi Kumar Yadav, learned counsel for the applicant and Shri Shyam Singh, learned counsel for the respondents are present.</p> <p>List on 08.07.2021.</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)**

O.A. No. 14 of 2020 with M.A. No. 379 of 2019

Suresh Chandra Tiwari
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>17.03.2021</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-indent: 40px;">On the case being taken up for hearing Shri Vinay Pandey and Anand Kumar Yadav, learned counsel for the applicant and Shri Rajiv Pandey, learned counsel for the respondents are present.</p> <p style="text-indent: 40px;">Despite having been granted several opportunities, no rejoinder affidavit has been filed. Therefore, opportunity to file the same is closed.</p> <p style="text-indent: 40px;">List on 06.07.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 208 of 2020 with M.A. No. 543 of 2019

Ex Hav Mohammad Aziz Khan
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri R Chandra, learned counsel for the applicant and Mrs. Anju Singh, learned counsel for the respondents are present.</p> <p style="text-align: center;">List on 06.07.2021.</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)

R.A. No. 17 of 2020 Inre M.A. No. 505 of 2019
Inre O.A. No. (Nil) of 2019

Smt Prabhavati W/O Ex Hav (Hony Nb Sub)
Late Ram Narain
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.03.2021</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 Vijay Kumar Pandey, learned counsel for the applicant and Dr. Gyan Singh, learned counsel for the respondents are present.</p> <p>As a last chance, two weeks further time is granted to learned counsel for the respondents to file objection against review application.</p> <p>List on 10.05.2021.</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)**

**R.A. No. 6 of 2021 with M.A. No. 75 of 2021
Inre O.A. No. 612 of 2020**

Union of India & Others
By Legal Practitioner for the Applicant-respondents

Applicant-respondents

Versus

Ex Sgt Kamal Deep Rastogi
By Legal Practitioner for Respondent-Applicant

Respondent-Applicant

Notes of the Registry	Orders of the Tribunal
	<p><u>17.03.2021</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 Yogesh Kesarwani, learned counsel for the applicant-respondents is present.</p> <p style="text-align: center;"><u>R.A. No. 6 of 2021 with M.A. No. 75 of 2021</u></p> <p>This is an application for review of order dated 25.11.2020 moved under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008, relevant portion of which is reproduced as under:</p> <p style="text-align: center;"><i>“18. Application for review.—(1) No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed. (2)”</i></p> <p>A plain reading of Rule 18 (1) (supra) shows that no application for review shall be entertained after expiry of thirty days from the date of receipt of copy of the order.</p> <p>Ld. Counsel for the applicants has not invited attention of the Tribunal to any provision of the aforesaid Rules under which the Tribunal is empowered to condone delay while preferring review application.</p> <p>The present application for review of order dated 05.08.2016 after expiry of thirty days i.e. it is barred by one month and ten days.</p> <p>Accordingly, the application for condonation of delay as well as application for review is rejected being not maintainable.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 309 of 2017

Col Vikram Chauhan 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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Virat Anand Singh, Shri Indra Sen Singh and Shri Ravi Prakash Tripathi, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p>List on 13.04.2021.</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)

O.A. No. 654 of 2017

Bharat 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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri Vinay Pandey, learned counsel for the applicant and Shri Rajiv Pandey, learned counsel for the respondents.</p> <p>2. The instant Original Application has been filed on behalf of the petitioner under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the petitioner has sought following reliefs:-</p> <p style="padding-left: 40px;">(i) Hon'ble Tribunal may be pleased to direct the respondents to grant disability pension with effect from 19.09.1994 for life along with the interest at the rate of 18% per annum.</p> <p style="padding-left: 40px;">(ii) Hon'ble Tribunal may be pleased further to grant benefit of rounding of disability pension @ 50 percent in terms of Ram Avtar's case.</p> <p style="padding-left: 40px;">(iii) Any other appropriate order or direction which the Hon'ble Tribunal may deem just and proper in the nature and circumstances of the case.</p> <p>3. Brief facts of the case are that the applicant was enrolled in the Army on 27.10.1993 and was invalided out of service on 18.09.1994 in low medical category on account of disability 'LEPROSY BT 030 (d)'. Prior to discharge, applicant was brought before Invaliding Medical Board (IMB) held on 27.07.1994 which has assessed his disability @ 50% for one year neither attributable to nor aggravated by military service and also not connected with military service. The applicant has put in 10 months and 22 days of service at the time of invalidation from service which includes his admission in hospital for treatment. Disability pension claim was rejected by order dated 19.03.1996 and communicated to applicant vide letter dated 30.03.1996. This O.A. has been filed for grant of disability pension.</p> <p>4. Learned counsel for the applicant pleaded that applicant was</p>

enrolled in the Army in medically and physically fit condition and there is no note in his service documents that he was suffering from any disease at the time of entry in service. He further pleaded that since the applicant was invalided out from service in low Medical Category on medical grounds for the disability '**LEPROSY BT 030 (d)**' without completing terms of engagement, therefore, he is entitled to disability pension with effect from his date of discharge. Learned counsel for the applicant has relied upon the Hon'ble Apex Court judgment in the case of *Dharamvir Singh vs UOI & Ors*, 2013 AIR SCW 4236, *Sukhwinder Singh vs UOI & Ors*, 2014 14 SCC 364, *Union of India & Ors vs Angad Singh Titaria*, 2015 12 SCC 257 and *UOI & Ors vs Rajbir Singh*, 2015 12 SCC 264 and submitted that in view of pronouncement of aforesaid judgments, applicant is entitled to disability pension.

5. On the other hand, learned counsel for the respondents submitted that since applicant's disability '**LEPROSY BT 030 (d)**' has been regarded as neither attributable to nor aggravated by military service, therefore claim for the same has rightly been rejected by pension sanctioning authority. His further submission is that applicant is not eligible for grant of disability pension in terms of provisions laid down in para 173 of Pension Regulations for the Army, 1961 (Part-I) which stipulates that unless otherwise specifically provided the disability pension may be granted to an individual who is invalided out from service on account of a disability which is attributable to or aggravated by military service and also connected to the service and is assessed at 20 percent or over. He submitted that in the instant case, applicant is lacking the primary condition for grant of disability pension that the disability with which he suffered should be attributable to or aggravated by military service whereas applicant's disability '**LEPROSY BT 030 (d)**' having been declared as NANA by the IMB, he is not entitled to disability pension. Learned counsel for the respondents pleaded for dismissal of O.A.

6. We have perused the material placed on record.

7. We have given our anxious consideration and find that applicant was enrolled on 27.10.1993 and as per IMB dated 27.07.1994, he was detected to be suffering with '**LEPROSY BT 030 (d)**' w.e.f. October, 1993 i.e. from the

month in which he was enrolled and undergone treatment in hospital. Having been administered prolonged treatment in Base Hospital, Delhi Cantt, he was recommended by Graded Specialist (Derm & STD) to be invalided out of service. Based on recommendations of Graded Specialist, he was invalided out of service.

8. We find that since applicant was found to be suffering with '**LEPROSY BT 030 (d)**' in the month he was enrolled, an inference may be drawn that the disease with which he suffered, was existing prior to enrolment in the Army. Therefore, it has no relation to military service.

9. In view of the above and the fact that the disability '**LEPROSY BT 030 (d)**' was in existence prior to enrolment and has not been caused due to military service, applicant is not entitled to disability pension.

10. The O.A. has no merit and deserves to be dismissed. It is accordingly **dismissed**.

11. No order as to costs.

12. 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. 13 of 2018

Shri Pal 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>17.03.2021</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 none appeared on behalf of the applicant to represent his cause. Maj RD Singh (Retd), learned counsel for the applicant and Shri RC Shukla, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the applicant, list on 18.05.2021 for physical hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>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.125 of 2018

Baleshwar Tiwari
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>17.03.2021</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 Vijay Kumar Pandey, learned counsel for the applicant and Shri Arun Kumar Sahu, learned counsel for the respondents are present.</p> <p>Shri Vijay Kumar Pandey, learned counsel for the applicant submits that Original Application may be disposed off with direction to the respondents to revise the pension of applicant in terms of letter No.1(13)/2016/D (Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, to which Shri Arun Kumar Sahu, learned counsel for the respondents has no objection.</p> <p>With the consent of learned counsel for the parties, we hereby dispose of the Original Application finally with the direction to the respondents to revise the pension of applicant in terms of letter No. 1(13)/2016/D (Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, within a period of three months from the date of receipt of copy of this order and communicate to the applicant accordingly after verifying the documents.</p> <p>Let a copy of this order be provided to the learned counsel for the parties.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 67 of 2019

Ex Hav (Hony Nb Sub) Umed 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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Parijaat Belaura, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents are present.</p> <p>Shri Parijaat Belaura, learned counsel for the applicant submits that Original Application may be disposed off with direction to the respondents to revise the pension of applicant in terms of letter No.1(13)/2016/D (Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, to which Shri Ashish Kumar Singh, learned counsel for the respondents has no objection.</p> <p>With the consent of learned counsel for the parties, we hereby dispose of the Original Application finally with the direction to the respondents to revise the pension of applicant in terms of letter No. 1(13)/2016/D (Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, within a period of three months from the date of receipt of copy of this order and communicate to the applicant accordingly after verifying the documents.</p> <p>Let a copy of this order be provided to the learned counsel for the parties.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 315 of 2019

Col Balraj Sharma, SC
 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>17.03.2021</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 Balraj Sharma, SC in person and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present.</p> <p style="text-align: center;">List on 13.04.2021.</p> <p style="text-align: center;"> (Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) </p>
	rathore

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

O.A. No. 510 of 2019

Nb Sub (Nur Asst) Pankaj Kumar 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>17.03.2021</u> Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J) Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</p> <p style="text-align: center;">On the case being taken up for hearing Shri Om Prakash Kushwaha and Shri KP Datta, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p style="text-align: center;">List on 07.07.2021.</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)

O.A. No. 585 of 2019

Nb Sub (RT) Rakesh Kumar Tripathi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.03.2021</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 KP Datta, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p>List on 07.07.2021.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

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

Maj Vinay Sharma
By Legal Practitioner for the Applicant

Applicant

Versus

Secretary GOI, MOD & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.03.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col YR Sharma (Retd), learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents are present.</p> <p>Objection filed by the respondents is taken on record.</p> <p>List on 07.04.2021.</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)

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

Ex Hav RD Tripathi
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>17.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col YR Sharma (Retd) and Shri Yashpal Singh, learned counsel for the petitioner and Shri Namit Sharma, learned counsel for the respondents are present.</p> <p>List on 07.04.2021.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

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

Yogendra Singh Tomar Petitioner
By Legal Practitioner for the Petitioner

Versus

Govt of India through Secretary Defence
Sena Bhawan & another Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.03.2021</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 DKS Chauhan, learned counsel for the petitioner and Shri Namit Sharma, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the respondents list this case on 07.04.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rspal</p>

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

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

Rajesh Kumar Awasthi 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>17.03.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Virat Anand Singh, learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the respondents list this case on 07.04.2021.</p> <p style="text-align: center;"> (Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) </p> <p>rspal</p>