

Form No. 4
{See rule 11(1)}

ORDER SHEET

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

Ex. A. No 56 of 2019 Inre O.A. No 239 of 2012

Hav/Clk Ram Roop 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>20.01.2021</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>1. Heard Shri IP Singh, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents.</p> <p>2. Learned counsel for the respondents submitted that applicant had filed O.A. against order dated 21.10.1994 of the respondents by which applicant was dismissed from service. This O.A. was allowed in part and while quashing the impugned order in O.A., applicant was reduced to the next lower rank last held by him and it was directed that he shall be notionally treated to be in service till he attains pensionable service, thereafter, he shall be entitled to post retiral benefits in accordance with law. However, he shall not be entitled to the back wages for the said period on the principle of 'No work no pay' but shall be entitled for service pension of the rank to which he was reduced to with further directions to respondents that calculate the pension of the applicant from the date of his notional discharge after acquiring pensionable service, with the further directions that they shall comply this exercise within a period of six months from the date of judgment, failing which they shall also be liable to pay interest @ 9% per annum on the total amount accrued from due date till the date of actual payment.</p>

3. Learned counsel for the respondents further submitted that this Tribunal while passing the aforesaid order was of the view that last post held by the applicant at the time of discharge was of Havildar, whereas applicant had already been reduced to the rank of Sep by the punishment order awarded to him on 20.12.1993 which was never challenged. Thus, he submitted that when the applicant has already been reduced to Sepoy by an order and there being no next rank below this, it has become difficult to implement order and respondents are facing hardship how to get order enforced.

4. Having heard the submissions of learned counsel for the respondents we do not see any merit in it. Be it as it may, applicant may be treated to be notionally in the service in the rank of Sep for pensionary purpose, as directed in the order passed in O.A. Respondents are therefore directed to complete the exercise, as ordered, within six weeks from today and file compliance report treating the applicant in service in the rank of Sepoy for the purpose of pensionary benefits. In the event of failing they shall be liable to pay Rs. 20,000/- (Rupees twenty thousand only) as cost to the applicant.

5. List on **15.04.2021** for orders.

6. Let copy of this order be served to learned counsel for the respondents to ensure compliance of the order.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

UKT/-