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

R.A. No. 31 of 2018 Inre : O.A. No. 135 of 2014

State Bank of India and Another **Review Applicants**
By Legal Practitioner for the Review Applicants

Inre :

Union of India and Others Applicants

Versus

Rajendra Pratap Singh Respondent-Applicant
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri D.C. Lohumi, Ld. Counsel for the Review Applicants/Sate Bank of India and Another and Shri V.P. Pandey, Ld. Counsel for the respondent. The Review Applicants have filed this application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 by which applicants/State Bank of India and Another have prayed for review and setting aside the judgement and order dated 27.02.2018 of this Tribunal passed in Original Application No.135 of 2014. The order reads as under:- *"As a result of foregoing discussion, the O.A. is allowed and the applicant is held entitled to interest on delayed payment at the rate of 9% per annum since the year 2006 for original PPO & 2009 for amount due in corrigendum PPO. The respondent Bank is also directed to pay cost which we quantify at Rs 1,00,000/- (Rupees one lac only). The cost shall be paid to the Applicant within four months from today. The interest on the arrears of pension, commutation as also the gratuity shall be payable at the rate of 9% from three months after the date of issue of the PPO in the year 2006 and issue of corrigendum PPO in 2009 till the date of actual payment. The respondents are directed to comply with the orders within four months."* The oder of which review has been sought was passed by the Bench comprising of (Hon'ble Mr. Justice S.V.S. Rathore, Member (J) (since retired) and Hon'ble Air Marshal B.B.P. Sinha, Member (A) (since transferred to AFT, Principal Bench). It is a settled proposition of law that the scope of the review is limited and until it is shown that there is error apparent on the face of record in the judgment and order sought to be reviewed, the same cannot be reviewed.

For ready reference, Order 47, Rule 1 sub-rule (1) of the Code of Civil Procedure, 1908 is reproduced below :-

> "*1. Application for review of judgment.- (1) any person considering himself aggrieved-*
>
> > *(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*
> > *(b) by a decree or order from which no appeal is allowed, or*
> > *(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record , or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order."*

In view of the principles of law laid down by the Hon'ble Supreme Court in various decisions, it is settled that the scope of review jurisdiction is very limited and re-hearing is not permissible. The Hon'ble Supreme Court in Para 9 of its judgment in the case of ***Parsion Devi and others vs. Sumitri Devi and others***, reported in (1997) 8 Supreme Court Cases 715, has observed as under :-

> *"9. Under Order 47, Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self- evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47, Rule 1 CPC. In exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise."*

We have gone through the judgment and order sought to be reviewed and no illegality or irregularity or error apparent on the face of record being found therein, we are of the view that there is no force in the grounds taken in the review application so that order may be reviewed.

In the result, Review Application is **rejected.**

(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. 66 of 2021

Col. Anurag Kumar (Retd.) 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri Ashish Kumar Singh, Advocate filed power today in Court on behalf of the respondents which is taken on record. Heard Shri Anand Yadav, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents. Shri Anand Yadav, Ld. Counsel for the applicant submits that Original Application may be disposed off with direction to the respondents to decide the applicant's Appeal dated 20.10.2020, which is pending with the respondents, to which Ld. Counsel for the respondents has no objection. 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 Appeal dated 20.10.2020, contained as Annexure No. 5 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. Let a copy of this order be provided to the learned Counsel for the parties. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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 2021

Ex. Sub. Manohar Lal 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Ms. Appoli Srivastava, Advocate filed power today in Court on behalf of the respondents which is taken on record. Heard Col. A.K. Srivastava (Retd.), Ld. Counsel for the applicant and Ms. Appoli Srivastava, Ld. Counsel for the respondents. 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 **20.04.2021** for exchange of pleadings. List the matter before Tribunal on **30.04.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 68 of 2021

Ex. Sep. (Chef) Aneesh M. 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri Arvind Kumar Pandey, Advocate filed power today in Court on behalf of the respondents which is taken on record. Heard Shri R.K. Mishra, Ld. Counsel for the applicant and Shri Arvind Kumar Pandey, Ld. Counsel for the respondents. 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 **20.04.2021** for exchange of pleadings. List the matter before Tribunal on **30.04.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 3 of 2021 Inre : O.A. No. 550 of 2018

Brij Kishor Pandey 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Dr. Chet Narayan Singh, Advocate filed power today in Court on behalf of the respondents which is taken on record. On the case being taken up for hearing Shri Ashok Kumar, Ld. Counsel for the applicant, Dr. Chet Narayan Singh, Ld. Counsel for the respondents and Shri Rajeev Tiwari, Assistant Accounts Officer, Principal Controller of Defence Accounts (Pension), Allahabad are present. Shri Rajeev Tiwari submits that P.P.O. in this case has been issued in March, 2020, however, arrears could not be credited in applicant's account due to non receipt of descriptive roll from the Records Office. Dr. Chet Narayan Singh, Ld. Counsel for the respondents submits that time be given to him to seek instructions in the matter which is allowed. Let the instructions be sought within two weeks. List on **23.02.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 43 of 2021 Inre : Ex. A. No. 202 of 2018 Inre : O.A. No. 314 of 2018

Krishna Bihari Mishra Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri Yogesh Kesarwani, Advocate filed power today in Court on behalf of the respondents which is taken on record. On the case being taken up for hearing Col. R.A. Pandey, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present. Shri Yogesh Kesarwani, Ld. Counsel for the respondents submitted that recall application has not been filed within thirty days, therefore, it should be dismissed being barred by time. In reply, Ld. Counsel for the applicant submitted that the order impugned has not been passed in default, rather Execution Application has been disposed off, therefore, bar of limitation is not applicable. We have gone through the order and we find that present application being in fact a recall application is required to be filed within thirty days from the date of order. Applicant is, therefore, directed to move application for condonation of delay, if so desire, within two weeks. List on **01.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 35 of 2019 Inre : T.A. no. 349 of 2010

Ex. Nk. (TS) Ramayan Mishra Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing none appears on behalf of the applicant nor is there any mention to pass over the case. Shri Anurag Mishra, Ld. Counsel for the respondents is present. Affidavit of compliance filed by the respondents is taken on record. Shri Rajeev Tiwari, Assistant Accounts Officer, Principal Controller of Defence Accounts (Pension), Allahabad is also present and he submits that in compliance of order Rs.22,90,791/- has already been credited in applicant's account in November, 2020 and Rs.18,427/- is also being regularly paid to applicant per month as pension since November, 2020. In view of above, it seems that order has been complied with. Accordingly, Execution Application is **dismissed.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 37 of 2020 Inre : O.A. No. 436 of 2019

Ex. Sep. Birda Ram Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Ashok Singh, Ld. Counsel for the applicant and Ms. Preeti Mala, Ld. Counsel for the respondents are present. Ms. Preeti Mala, Ld. Counsel for the respondents submits that applicant's grievance has been redressed by deciding his complaint. She also submits that a week time be given to her to file affidavit of compliance which is allowed. Let affidavit of compliance be filed within a week. List on **02.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 166 of 2018 Inre : O.A. No. 662 of 2017

Ex. Hav. (Hony. Nb. Sub.) Vijay Bahadur Rai 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri B.B. Tripathi, Ld. Counsel for the applicant and Shri R.C. Shukla, Ld. Counsel for the respondents are present. Objection to the affidavit of compliance filed by the applicant is taken on record. We have gone through the affidavit of compliance filed by the respondents and we find that no compliance has been made in letter and spirit as despite there being direction to make compliance within four months and to pay interest @9% on the arrears in the event of failing, this part of the order has not been complied. Respondents are directed to seek instructions in the matter within two weeks and apprise the Tribunal. List on **02.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 32 of 2019 Inre : O.A. No. 685 of 2017

Ex. Hav. Ramesh Chand Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri B.B. Tripathi, Ld. Counsel for the applicant and Shri Bipin Kumar Singh, Ld. Counsel for the respondents are present. Ld. Counsel for the applicant submitted that there is no compliance of the order in letter and spirit as rounding off has been shown effective w.e.f. 09.04.2015 in place of 01.12.2014 and interest has been shown payable @9% in place of 9% in the P.P.O. The aforesaid submission seems true. Respondents are directed to seek instructions in the matter within two weeks and apprise the Tribunal. List on **03.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 271 of 2020

Ex. Sep. Jangle Nana Vitthal Applicant
By Legal Practitioner for the Applicant

Versus

Second Appellate Committee on Pensions (SACP) & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Rohit Kumar, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents. Original Application is **allowed**. For order, see our Judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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 Applicant
By Legal Practitioner for the Applicant

Versus

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

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri D.K.S. Rathore, Ld. Counsel for the applicant is present. Major Tarun, OIC Legal is also present from the side of respondents and he submits that against the order under execution the respondents have been instructed to file Leave to Appeal application before this Tribunal. However, no such application is filed as yet. Considering that order under execution is of date 20.09.2017, it appears that respondents are not serious at all regarding compliance of the order as had they been, they would never make such submission. However, considering the facts and circumstances of the case, we direct respondents to make compliance of the order within four weeks failing which they shall be liable to pay Rs.50,000/- as cost to the applicant. List on **17.03.2021**. Let a copy of this order be provided to the OIC Legal Cell within two days. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 51 of 2018 with M.A. No. 303 of 2020 Inre : O.A. No. 169 of 2011

Lt. Col. Lokesh Kandpal 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents. Ld. Counsel for the applicant has submitted that observations regarding courageous act done by the applicant during rescue operation on the night of 19/20 September, 2005 recorded by the respondents in para 4 of Annexure 1 to the affidavit of compliance dated 28.08.2020, filed in Tribunal on 31.08.2020, are contrary to observation made by this Tribunal in order under execution. He has submitted that this Bench in sub-para (5) of para 76 of the Judgment has clearly stated that the courageous act done by the applicant during rescue operation in the night of 19/20 September, 2005 wherein he saved the life of remaining Army personnel deserves well consideration by the respondents to be mentioned in ACR/Pen-picture. In reply, Ld. Counsel for the respondents has submitted that observation in para 4 of the Annexure - 1 to affidavit of compliance dated 28.08.2020 is not contradictory to the findings recorded by this Bench. This Bench in operative portion of the order has directed respondents to look into the whole episode afresh keeping in view the record available in the matter as well collecting the material otherwise keeping in view the observations made in the present order and take appropriate corrective measures to tone up the unit and higher level administration of the Army. Ld. Counsel for the respondents has further submitted that as regards compliance para 3 and 4 of affidavit of compliance dated 22.10.2018, filed in Tribunal on 23.10.2018, are more specific which read that in regard to courageous act done by the applicant, competent authority has accorded sanction to bring on record in the officer's Confidential Record Dossier (CRD) alongside the ICR the action taken

	by the applicant in the fateful night of 19/20 September 2005 whereby saving the lives of Army personnel. He has further submitted that para 4 of the affidavit specifically reads that in terms of sanction accorded, the certified copy of the order of the Tribunal has also been placed in the CRD of the applicant alongside ICR 07/05-03/06 with further direction of the competent authority to highlight the courageous act as recorded therein to the Selection Board as and when the applicant comes up for consideration for promotion. Thus, he has submitted that since the order has been fully complied with by the respondents, execution proceedings be closed. After having heard the submissions of Ld. Counsel of both sides, we find that perusal of ICR/Pen-picture relating to applicant is required to ensure compliance. Respondents are, therefore, directed to produce applicant's ICR/Pen-picture in sealed cover on 17.03.201 for perusal of the Bench. Respondents are also directed to seek instructions with regard to Promotion Board being convened in the matter of applicant, if any. List on **17.03.2021**. Let a copy of this order be provided to the Counsel for the respondents for compliance within two days. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 1471 of 2017 Inre : O.A. No. (Nil) of 2017

Ex. Gnr. Pawan Kumar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri Bhanu Pratap Singh, Advocate filed power today in Court on behalf of the applicant which is taken on record. His name be shown as Counsel for the applicant when the case is listed next. On the case being taken up for hearing Shri Bhanu Pratap Singh, Ld. Counsel for the applicant and Dr. Gyan Singh, Ld. Counsel for the respondents are present. Ld. Counsel for the applicant seeks and is allowed two weeks time to prepare the case. List on **10.02.2021** for hearing on application for condonation of delay. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 6 of 2020 Inre : O.A. No. 148 of 2018

Ex. Spr. Raj Kumar Verma 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents are present. Affidavit of compliance filed by the respondents today in the Court is taken on record. . List tomorrow i.e. on **22.01.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 36 of 2019 Inre : O.A. No. 255 of 2016

Ex. Nb. Sub. Brij Kishor Dwivedi 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Shri Bipin Kumar Singh, Ld. Counsel for the respondents are present. Shri R. Chandra, Ld. Counsel for the applicant submitted that order under execution has been complied with. Accordingly, Execution Application is **dismissed** in full and final satisfaction. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 34 of 2020 with M.A. No. 29 of 2020

Ex MWO (HFO) Chandra Pal Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	**Orders of the Tribunal**
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Shailendra Kumar Singh, learned counsel for the applicant and Mrs Anju Singh, learned counsel for the respondents are present. Judgment. **(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. 571 of 2019

Ex Hav Virender Kumar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri VP Pandey, learned counsel for the applicant and Dr. Chet Narain Singh, learned counsel for the respondents are present. Learned counsel for the applicant during the course of hearing submitted that applicant may be permitted to withdraw the O.A. with liberty to file appeal against decision taken by respondents vide letter dated 11.10.2019 (Annexure R-1). Accordingly, O.A. is **dismissed** as withdrawn with liberty to file afresh, as prayed. **(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. 517 of 2017

Rahul 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Vinay Pandey, learned counsel for the applicant and Shri Ram Saran Awasthi, learned counsel for the respondents are present. Supplementary counter affidavit filed by the respondents is taken on record. Despite the counter affidavit being filed on 12.11.2018, no rejoinder affidavit has been filed as yet. Therefore, opportunity to file the same is closed. Pleadings are complete and the case is ripe for hearing. List on **24.03.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore

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

Ex-A/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**
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Namit Sharma, learned counsel for the respondents is present and he submits that four weeks furthe3r time be granted to file affidavit of compliance. Order under execution is dated 07.12.2018. Considering the facts and circumstances of the case time is allowed, as prayed. List on **17.03.2021**. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore

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

T.A. No. 52 of 2017

Lt Dhirendra Tiwari (Retd) 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Kaushik Chatterjee, learned counsel for the respondents is present and he submits that despite applicant being directed to file rejoinder affidavit time and again, he has not filed the same. As a last change, applicant is directed to file rejoinder affidavit within three weeks failing which opportunity to file the same shall be closed without any reference. Applicant is also directed to file copy of memo of appeal filed in the Hon'ble Apex Court by date fixed. List on **01.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

Ex-A/208 of 2017 Inre T.A. No. 887 of 2010

Niranjan Singh 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, learned counsel for the petitioner and Shri Rajiv Pandey, learned counsel for the respondents are present. As prayed by learned counsel for the applicant one week time is allowed to file objection against affidavit of compliance. List on **25.01.2021**. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore

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

Dy No. 183 of 2019 Inre O.A. (Nil) of 2019

Vishal 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present. Learned counsel for the applicant, during the course of hearing, submitted that applicant's father was a Barber at Military Hospital, Varanasi and he being civilian was not subject to Army Act, therefore, the O.A. may be dismissed being not maintainable. O.A. is accordingly **dismissed.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

M.A. No. 419 of 2020 Inre O.A. No. 593 of 2020

Lt Col Balram Tiwari 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Ajay Kumar Pandey, learned counsel for the applicant and Shri Sunil Sharma, learned counsel for the respondents are present. Counter affidavit filed by the respondents is taken on record. Rejoinder affidavit has also been filed in Registry, as told by learned counsel for the applicant. Let it be placed on record, if filed. List on **25.01.2021** for physical hearing at 02.30 pm. **(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. 271 of 2018

Shiv Bhushan Mishra & Another Applicants
By Legal Practitioner for the Applicants

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	**Orders of the Tribunal**
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Akhilesh Tripathi, learned counsel for the applicants and Ms Appoli Srivastava, learned counsel for the respondents are present. List on **23.03.2021**. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore

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

O.A. No. 209 of 2018

Smt Nirmala Kumari Jha @ Nirmala Kumari 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**
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Amit Verma, learned counsel for the applicant and Shri RKS Chauhan, learned counsel for the respondents are present. List on **23.03.2021**. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
O.A. No. 324 of 2017

TD Kolekar 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Rohit Kumar, learned counsel for the applicant and Shri Kaushik Chatterji, learned counsel for the respondents are present. Pleadings are complete and the case is ripe for hearing. List on **24.03.2021** for hearing. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
O.A. No. 270 of 2016

Jamuna Prasad Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri JN Mishra, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present. Pleadings are complete and the case is ripe for hearing. List on **24.03.2021** for hearing. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
O.A. No. 82 of 2017

Md Arshad 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
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri KK Misra, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present. Pleadings are complete and the case is ripe for hearing. List on **25.03.2021** for hearing. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
O.A. No. 263 of 2014

Ishwar Prasad Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, learned counsel for the applicant and Mrs Deepti Prasad Bajpai, learned counsel for the respondents are present. List on **25.03.2021**. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
O.A. No. 508 of 2019

Smt Kalinder Devi @ Kalindi Devi Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	**Orders of the Tribunal**
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Manoj Kumar Singh, learned counsel for the applicant and Mrs Anju Singh, learned counsel for the respondents are present. Pleadings are complete and the case is ripe for hearing. List on **26.03.2021** for hearing. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
O.A. No. 54 of 2020 with M.A. No. 922 of 2019

Ex Nk Ajay Kumar Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Pankaj Kumar Shukla, learned counsel for the applicant and Shri Anurag Mishra, learned counsel for the respondents are present. Affidavit of compliance filed by the respondents is taken on record. We have gone through the affidavit and we find that applicant's grievances raised in the O.A. have been addressed and PPO has been issued. In view of this application has become infructuous. Therefore the same is **dismissed** being infructuous. **(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. 41 of 2021

Ex Nb Sub Chandra Bali 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**
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Vijay Kumar Pandey, learned counsel for the applicant and Shri Anurag Mishra, learned counsel for the respondents are present. Judgment. **(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. 249 of 2018

Shailendra Kumar Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** 1. Heard Shri VP Pandey, learned counsel for the applicant and Shri Kaushik Chatterji, learned counsel for the respondents. 2. This 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 the following reliefs:- *(i) To allow the application by quashing the order dated 16.09.2010 and 01.03.2017 passed by respondent No 3 by which the disability pension has been denied to the applicant.* *(ii) To issue a suitable order or direction commanding the respondent No 3 to pay disability pension to the applicant.* *(iii) Pass such other further order which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.* *(iv) Award cost of the appeal to the applicant.* 3. Brief facts of the case are that the applicant was enrolled in the Indian army on 26.06.2009 and was invalided out of service w.e.f. 28.12.2009 in low medical category 'S1H1A1P(5)A1' due to 'Symptomatic Seizure NCC Lt Occipital Lobe)'' under Rule 13 (3) (iii) (iv) of the Army Rules, 1954. The Invaliding Medical Board (IMB) has assessed his disability @ 11-14% for life neither attributable to nor aggravated by military service (NANA). Disability pension claim of applicant was rejected vide order dated 16.09.2010. First appeal has also been rejected vide order dated 31.01.2017. Feeling aggrieved, applicant has filed the instant O.A. 4. Learned counsel for the applicant pleaded that applicant was enrolled in the army in medically and physically fit condition. It was further pleaded that a

member is to be presumed in sound physical and mental condition upon entering service if there is no note or record to the contrary at the time of entry. In the event of his subsequently being invalided out from service on medical grounds, any deterioration in his health is to be presumed due to service conditions. He pleaded that applicant was under stress of service conditions which may have led to occurrence of the disability. He pleaded for disability pension to be granted to applicant.

5. On the other hand, learned counsel for the respondents submitted that on 13.10.2009, while undergoing basic military training, applicant was admitted to Base Hospital, Delhi Cantt and after carrying out his thorough investigation he was invalided out of service w.e.f. 28.12.2009 in low medical category by a duly constituted Invaliding Medical Board (IMB) which assessed his disability @ 11-14% for life neither attributable to nor aggravated by military service. Learned counsel for the respondents further contended that since the medical board has recommended the disability to be NANA, the pension sanctioning authority and the Appellate Authority have rejected disability pension claim on the grounds of disability being neither attributable to nor aggravated by military service. He pleaded the O.A. to be dismissed.

6. We have heard learned counsel for both sides and perused the material placed on record.

7. On careful perusal of the medical documents, it has emerged that applicant was enrolled on 26.06.2009 and during basic military training on 13.10.2009, he was admitted to Base Hospital, Delhi Cantt. His thorough investigation was carried out by Lt Col RK Anadure, Classified Specialist Medicine & Neurophysician who gave following remarks with regard to applicant's condition and disability:-

x x x x x x x x x x x x x x

*"**Profile-**Sudden onset loss of consciousness followed by tonic-clonic movements of all 4 limbs with tongue bite, had postictal confusion." x x x x x x x x x*

***Impression**-A case of symptomatic seizures in the form of GTCs managed with AEDs. In view of MRI Brain showing a focal lesion in the (L) occipital lobe, he needs to be on AEDs for a prolonged period.*

***Advice**-Recommended to be invalided/boarded out of service in cat-P5 (being a recruit)".*

8. Since the applicant, being a recruit, was found to be in medical category P5 (as advised by Neurophysician in his report dated 22.10.2009), an Invaliding Medical Board (IMB) was carried out at Base Hospital, Delhi Cantt on 23.11.2009 which recommended applicant to be invalided out from service in medical category P5 with 11-14% disablement for life neither attributable to nor aggravated by military service. The record shows that the applicant, as a recruit, developed symptoms of this disease for the first time within four months of his enrolment. Four months period as a recruit appears to be too short a period to link this disability with stress and strain of service. Therefore, there appears to be strong weightage in the stand of the respondents that applicant's disability 'Symptomatic Seizure NCC Lt Occipital Lobe' is not connected to military service as opined by the IMB. Further, the Appellate Authority on First has also examined applicant's disability in the light of relevant rules and finally rejected disability pension claim being disability neither attributable to nor aggravated by military service with the following remarks:

> *"The ID is a disease which results from the tapeworm infestation of the brain. However, the degeneration of such a lesion takes many months to years. Since the lesion was detected just 04 months of joining military service during ab-initio training, it is highly unlikely that infestation took place during military service. The ID is conceded as neither attributable to nor aggravated by military service."*

9. We are satisfied with the opinion of IMB proceedings and Appellate Authority and are of the view that applicant's disability is neither attributable to nor aggravated by military service. Additionally, a recruit is akin to a probationer and hence, prima facie, the respondents as an employer have a right to discharge a recruit who is not meeting the medical requirement of military service. In view of the foregoing, and the fact that the disease manifested within about four months of enrolment, we may conclude that applicant's disability is not connected with military service as has rightly been opined by the IMB.

10. Apart from it, in identical factual background, this Tribunal dismissed T.A. No. 1462/2010, ***Bhartendu Kumar Dwivedi vs. Union of India & others***, vide order dated 23.05.2011, wherein applicant was enrolled on 21.01.2000 and was discharged on 27.04.2000 as he was suffering from 'Schizophrenia'

which is alike ‘Symptomatic Seizure NCC Lt Occipital Lobe’. Said disability was assessed @ 80% for two years and it was opined by the Medical Board to be neither attributable to nor aggravated by military service. Said order of this Tribunal has been upheld by the Hon’ble Apex Court as Civil Appeal Dy. No. 30684/2017 preferred against the aforesaid order, has been dismissed on delay as well as on merits vide order dated 20.11.2017.

11. Additionally, in Civil Appeal No 7672 of 2019 decided on 03.10.2019, ***Ex Cfn Narsingh Yadav vs Union of India & Ors***, it has again been held by the Hon’ble Apex Court that mental disorders cannot be detected at the time of recruitment and their subsequent manifestation (in this case after about six months of recruit service) does not entitle a person for disability pension unless there are very valid reasons and strong medical evidence to dispute the opinion of Medical Board. Relevant part of the aforesaid judgment is as given below:-

> *“20. In the present case, clause 14 (d),as amended in the year 1996 and reproduced above, would be applicable as entitlement to disability pension shall not be considered unless it is clearly established that the cause of such disease was adversely affected due to factors related to conditions of military service. Though, the provision of grant of disability pension is a beneficial provision but, mental disorder at the time of recruitment cannot normally be detected when a person behaves normally. Since there is a possibility of non-detection of mental disorder, therefore, it cannot be said that ‘Paranoid Schizophrenia (F 20.0)’ is presumed to be attributed to or aggravated by military service.*
>
> *21. Though, the opinion of the Medical Board is subject to judicial review but the courts are not possessed of expertise to dispute such report unless there is strong medical evidence on record to dispute the opinion of the Medical Board. The Invaliding Medical Board has categorically held that the appellant is not fit for further service and there is no material on record to doubt the correctness of the Report of the Invaliding Medical Board.”*

12. In view of the above, the O.A. is devoid of merit and deserves to be dismissed. It is accordingly **dismissed**.

13. No order as to cost.

(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. 127 of 2018

Santosh Kumar Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	**Orders of the Tribunal**
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present. Judgment. **(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. 458 of 2018

Ex Hav Bhanu Pratap Rajak 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**
	21.01.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents are present. Pleadings are complete and the case is ripe for hearing. List on **26.03.2021** for hearing. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** rathore