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

M.A. No. 128 of 2021 Inre O.A. (Nil) of 2021

Smt Birmo Devi W/O
Late Ex Sep (EBR) Prem Raj 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of appearance filed by Mrs Kavita Mishra, Advocate on behalf of the respondents is taken on record. His name shall be shown in cause list. On the case being taken up for hearing Shri Pushpendra Kumar Dhaka and Shri Ramakant Gupta, learned counsel for the applicant and Mrs Kavita Mishra, learned counsel for the respondents are present. **M.A. No. 128 of 2021** There is delay of 54 years, 05 months and 23 days in filing application. Learned counsel for the applicant submitted that bar of limitation is not application in pensionary matters. He further submitted that delay in filing application is not deliberate but for the reasons stated in affidavit. Learned counsel for the respondents has vehemently opposed the prayer and submitted that no satisfactory explanation of delay has been given. Upon hearing learned counsel for both the sides, we find that bar of limitation is not applicable in pensionary matters. We also find that cause shown is sufficient. Accordingly, delay is condoned. Let Original Application be registered. **O.A. No. 139 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 this case on **28.04.2021** before the Registrar Court for exchange of pleadings and thereafter on **12.05.2021** for final hearing. **(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/80 of 2018 with M.A. No. 439 of 2020,
M.A. No. 440 of 2020 Inre R.A. No. 17 of 2011
Inre T.A. No. 288 of 2010

Smt Darko Devi W/O
Late Ex Hav Chhote Lal 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri R Chandra, learned counsel for the petitioner and Shri RC Shukla, learned counsel for the respondents are present. Learned counsel for the applicant submitted that applicant has not yet received service element with effect from 15.06.1971 till 31.12.2000, to which submission of learned counsel for the respondents is that service element has already been granted to applicant as is apparent from the PPO dated 29.08.2014. However, when a query was made regarding payment of service element, Shri Rajiv Tiwari, Accts Officer, PCDA (P), Allahabad, submitted that applicant has been paid disability element only with effect from 15.06.1971 to 31.12.2000 and no service element has been paid. Respondents are, therefore, directed to issue Corrigendum PPO mentioning therein service element also with effect from 15.06.1971 to 31.12.2000 within four weeks from today. List on **08.04.2021**. **(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/215 of 2018 Inre T.A. No. 75 of 2011

Ex Swr Ashok Kumar 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Bachchan Singh, learned counsel for the petitioner and Dr. SN Pandey, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative for the respondents are present. Learned counsel for the respondents submitted that they have just received instructions from the authorities concerned and to bring the same on record, sometime may be given. Let instructions be brought on record by way of affidavit within two weeks. List on **17.03.2021**. **(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/232 of 2018 Inre O.A. No. 584 of 2017

Ex Hav (Hony Nb Sub) Radhey Shyam 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Parijaat Belaura, learned counsel for the applicant and Dr. Chet Narain Singh, learned counsel for the respondents are present. Shri Rajiv Tiwari, Accounts Officer, PCDA (P) Allahabad is also present and he submits that in compliance of the order under execution, Rs 1,14,404/- in December 2018 and Rs 83,197/- in November 2020 have been paid to applicant towards arrears. Regarding payment of arrears, submission of learned counsel for the applicant is that he has not received instructions from his client in this regard. We have gone through the order of this Tribunal and we find that order has been complied with. Accordingly, execution application is **dismissed** in full and final satisfaction. **(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/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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Ashok Kumar, learned counsel for the applicant and Dr. Chet Narain Singh, learned counsel for the respondents are present. Shri Rajiv Tiwari, Accounts Officer, PCDA (P), Allahabad is also present and he submits that in compliance of the order, Rs 2,45,022/- and Rs 10,30,407/- have been credited in applicant's account on 11.02.2021 towards arrears. He also submitted that applicant is getting pension @ Rs 17,366/- pm regularly. Shri Rajiv Tiwari further submitted that as per PPO dated 08.10.2020 issued in the matter no disability element has been allowed to applicant due to disability being Nil. Re-Survey Medical Board Proceedings are not available on the record and the submission of respondents' learned counsel in this regard is that he has to seek instructions in this regard from the concerned authorities. Let instructions be sought within two weeks. List on **26.03.2021**. **(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)

M.A. No. 1864 of 2018 with M.A. No. 1865 of 2018
Inre M.A. No. 101 and 102 of 2018
Inre O.A. No. 49 of 2014

Ex Sep Mahendra Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Col BP Singh (Retd), learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present. Objection filed by the respondents is taken on record. By order dated 03.07.2014, O.A. No. 49 of 2014 was dismissed for non prosecution and recall application was filed vide M.A. No. 101 and 102 of 2018. The aforesaid MAs were also dismissed vide order dated 26.07.2018 for want of prosecution. **M.A. No. 1864 of 2018** There is a delay of 04 years, 03 months and 10 days in filing recall 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. Per contra, learned counsel for the respondents submits that cause shown for the delay is not sufficient. Considering the facts and circumstances of the case, we find that cause shown is sufficient. Accordingly, delay is condoned.

M.A. No. 1865 of 2018

This is an application for recall of orders dated 03.07.2014 and 26.07.2018 passed in O.A. No. 49 of 2014 and M.A. No. 102 of 2018 by which the Original Application was dismissed for non-prosecution.

The grounds shown in the recall application seem to be sufficient. Accordingly, the application is allowed and the order dated 03.07.2014 and 26.07.2018 are hereby recalled.

Let the Original Application be restored to its number.

M.A. numbers are disposed off.

O.A. No. 49 of 2014

List on **08.04.2021** 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)

M.A. No. 378 of 2019 Inre O.A. (Nil) of 2019

Gp Capt Mohammed Anwaruzzaman Khan (Retd) & Another 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yogesh Kesarwani, learned counsel for the respondents is present. None appears on behalf of the applicant to press this application. Delay condonation application is **dismissed** for want of prosecution. Consequently O.A. is also **dismissed**. **(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)

M.A. No. 625 of 2019 Inre O.A. (Nil) of 2019

Ex Hav (Hony Nb Sub) Joginder 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri KK Misra, learned counsel for the petitioner and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present. **M.A. No. 625 of 2019** The Original Application has been filed with delay of 01 year, 04 months and 09 days. 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 on account of reasons stated in affidavit filed in support of application. Per contra, learned counsel for the respondents submits that cause shown by the applicant is not sufficient. 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. Accordingly, delay in filing of application is condoned. Application stands decided accordingly. Let Original Application be registered. **O.A. No. 140 of 2021** Shri KK Misra, 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. 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. 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)** rathore

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

M.A. No. 853 of 2019 Inre O.A. (Nil) of 2019

Ex Rect Nikhil Singh Tomar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	**Orders of the Tribunal**
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Virat Anand Singh and Shri Pankaj Kumar Shukla, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present. As prayed by learned counsel for the applicant, 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)

M.A. No. 101 of 2020 Inre O.A. (Nil) of 2020

Ex Flt Cdr Akash Dubey Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	**Orders of the Tribunal**
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Pankaj Kumar Shukla, learned counsel for the applicant and Shri DK Pandey, learned counsel for the respondents are present. By order dated 06.11.2020 learned counsel for the applicant was required to move substitution application, but the same has not been done so far. Accordingly, O.A. is dismissed as abated for non prosecution. **(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. 499 of 2018

Smt Anita 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**
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Vinay Pandey, learned counsel for the applicant and Shri Asheesh Agnihotri, learned counsel for the respondents are present. As prayed by learned counsel for the respondents two weeks further time is granted to file supplementary country affidavit. List on **18.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 9 of 2019

Maj Anshuman Singh Chandel 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**
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri SSL Srivastava, learned counsel for the applicant and Ms Appoli Srivastava, learned counsel for the respondents are present. Counter affidavit filed by the respondents is taken on record. List on **06.05.2021**. In the meantime, rejoinder affidavit, if any may be filed by learned counsel for the applicant. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 465 of 2019

Ex Hav Raj Bahadur 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Pankaj Kumar Shukla, learned counsel for the applicant and Shri Adesh Kumar Gupta, learned counsel for the respondents are present. It is submitted by learned counsel for the respondents that two weeks further be granted to file counter affidavit, which is allowed. It is made clear that in case counter affidavit is not filed within the aforesaid period, opportunity to file the same shall be closed without any reference. List on **19.03.2021**. **(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. 513 of 2019

Ex Hav Narendra 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**
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Ashok Singh and Shri Vikas Singh Chauhan, learned counsel for the applicant and Mrs Anju Singh, learned counsel for the respondents are present. List on **07.05.2021**. **(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. 574 of 2019

Nk Chatur 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**
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri KKS Bisht, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents are present. Pleadings are complete and the case is ripe for hearing. List on **10.05.2021** for final hearing. On the date fixed, learned counsel for the respondents shall file original records pertaining to the case for perusal of the Bench. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 62 of 2020 with M.A. No. 952 of 2019

Ex Hav (Hony Nb Sub) Shanti Swarup 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Virendra Kumar Gupta, learned counsel for the applicant and Shri Devesh Kumar Mishra, learned counsel for the respondents are present. **M.A. No. 952 of 2019** The Original Application has been filed with delay of 09 years, 11 months and 27 days. 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 on account of reasons stated in affidavit filed in support of application. Per contra, learned counsel for the respondents submits that cause shown by the applicant is not sufficient. 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. Accordingly, delay in filing of application is condoned. Application stands decided accordingly. Let Original Application be registered. **O.A. No. 62 of 2020** Shri Virendra Kumar Gupta, 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 Devesh Kumar Mishra, learned counsel for the respondents has no objection.

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.

Let a copy of this order be provided to the learned counsel for the parties.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

rathore

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

O.A. No. 64 of 2020 with M.A. No. 933 of 2019

Ex Hav (Hony Nb Sub) Chhote 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Parijaat Belaura, learned counsel for the applicant and Shri Rajiv Pandey, learned counsel for the respondents are present. **M.A. No. 933 of 2019** The Original Application has been filed with delay of .. years, .. months and .. days. 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 on account of reasons stated in affidavit filed in support of application. Per contra, learned counsel for the respondents submits that cause shown by the applicant is not sufficient. 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. Accordingly, delay in filing of application is condoned. Application stands decided accordingly. Let Original Application be registered. **O.A. No. 64 of 2020** 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 Rajiv Pandey, learned counsel for the respondents has no objection. 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. 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)** rathore

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
O.A. No. 42 of 2020 with M.A. No. 290 of 2019

Col Sabir Ali Siddiqui 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** 1. Heard Shri Anand Yadav, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents. **M.A. No. 290 of 2019** 2. The Original Application has been filed with delay of 02 years and 09 days. 3. 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 on account of reasons stated in affidavit filed in support of application. 4. Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as it is not on day to day basis. 5. Considering that in pensionary matters bar of limitation is not applicable and grounds shown for delay are genuine and sufficient, delay deserves to be condoned. 6. Accordingly, delay is condoned. 7. The O.A. has already been admitted and registered vide order dated 14.01.2020. **O.A. No. 42 of 2020** 8. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:- "(a) Issue/pass an order or direction of appropriate nature whereby commanding the respondents to produce the record in original and thereafter quash the impugned orders dated 03.07.2018, 28.04.2017 and 27.06.2016 whereby rejecting the claim of the applicant for disability pension annexed as Annexure no.A-1(i)(ii) (iii) respectively with the application.

(b) Issue/pass an order or direction of appropriate nature whereby commanding the respondents to grant the disability pension to the applicant forthwith.

(c) Allow the application with all consequential benefits with exemplary cost.

9. Brief facts of the case giving rise to this application are that applicant was commissioned in the Indian Army on 20.12.1986 and after having served for more than 29 years, he superannuated in low medical category 'S1H1A1P2E2 (P)' on 30.08.2016. Prior to superannuation, applicant was brought before Release Medical Board (RMB) on 08.04.2016 which assessed the applicant to be suffering from (i) 'PRIMARY HYPERTENSION' @ 30% for life (ii) 'OPEN ANGLE GLAUCOMA BOTH EYE' @ 15-19% and composite assessment for both disabilities @ 30% for life. The first disability i.e. Primary Hypertension has been regarded as aggravated by military service but the second disability i.e. Open Angle Glaucoma Both Eye is regarded as neither attributable to nor aggravated by military service (NANA). Disability pension claim was rejected vide order dated 27.06.2016. Thereafter, first and second appeals were also rejected vide orders dated 28.04.2017 and 03.07.2018 respectively. It is in this perspective that this O.A. has been filed.

10. Learned counsel for the applicant submitted that the applicant was enrolled in the Army in medically and physically fit condition and there is no note in his service documents with regard to any disease prior to enrolment/commission, therefore, any disability of the applicant after joining the service should be considered as attributable to or aggravated by military service and the applicant should be entitled to disability pension. Learned counsel for the applicant further submitted that disability pension claim of the applicant has been rejected in a cavalier manner without assigning any meaningful reason. Further submission of learned counsel for the applicant is that since the aforesaid disease is due to stress and strain related to rigors of military service, these should be considered either attributable to or aggravated by military service. He pleaded for disability pension to be granted to the applicant.

11. On the other hand, learned counsel for the respondents submitted that though applicant's primary hypertension has been regarded as aggravated by military service by the RMB but the appellate authority has rejected the same on the ground of disability having originated in peace area and therefore it has no close time association with field/high altitude area. His further submission is that applicant's second disability has been regarded as neither attributable to nor aggravated by military service by RMB, therefore his disability pension claim was not allowed on the grounds of NANA and disability, being not related to military service. Therefore, O.A. deserves to be dismissed.

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

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

> *"29.1. Disability pension to be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable to or aggravated by military service to be determined under the Entitlement Rules for Casualty Pensionary Awards, 1982 of Appendix II (Regulation 173).*
>
> *29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)].*
>
> *29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9).*
>
> *29.4. If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service [Rule 14(c)]. [pic]*
>
> *29.5. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service [Rule 14(b)].*
>
> *29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons [Rule 14(b)]; and 29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions), 2002 - "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."*

14. In view of the settled position of law on attributability/aggravation, we find that the RMB has denied attributability/aggravation to the applicant only by endorsing that the disability of applicant arose in peace area and the said

disability having no close time association with stress/strain of service in Fd/HAA/CI Ops. We feel that such a discrimination between peace posting and a posting to Field/High Altitude Area/Counter Insurgency Operations amounts to saying that there is no stress and strain of military service in peace area, which is not the absolute truth. It is trite law that any disability not recorded at the time of recruitment must be presumed to have been caused subsequently, and, unless proved to the contrary to be a consequences of military service. The benefit of doubt, therefore, shall be rightly extended in favour of the applicant. In the instant case, since the applicant was found to be suffering from disability when he had put in more than 22 & 28 years of service respectively, it should be deemed to be aggravated by military service. We are, therefore, of the considered opinion that the benefit of doubt should be given to the applicant as per the Hon'ble Supreme Court judgment of *Dharamvir Singh* (supra) and the disability of the applicant should be considered as aggravated by military service.

15. In view of the above the applicant is held entitled to 30% disability element for life which shall stand rounded off to 50% disability element for life with effect from the date of his discharge in terms of *Union of India* vs. *Ram Avtar & Other*s, (Civil Appeal No. 418 of 2012 decided on 10 December, 2014.

16. As a result of foregoing discussion, the O.A. is **allowed**. The impugned orders dated 27.06.2016, 28.04.2017 and 03.07.2018 are set aside. The applicant shall be granted disability element with effect from his date of superannuation *i.e. 30.08.2016.* The respondents are directed to pay 50% disability element alongwith arrears within four months from today.

17. Default will invite interest @ 8% p.a.

18. No order as to costs.

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

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

O.A. No. 64 of 2020 with M.A. No. 933 of 2019

Ex Hav (Hony Nb Sub) Chhote 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Parijaat Belaura, Ld. Counsel for the applicant and Shri Rajiv Pandey, learned counsel for the respondents assisted by Maj Sini Thomas, Departmental Representative. Counter affidavit and supplementary counter affidavit filed by the respondents is taken on record. Ld. Counsel for the applicant submits that Original Application may be disposed off with direction to the respondents to revise the pension of applicant in terms of letter No. 1(13)/2016/D(Pen/Policy) dated 21st February, 2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, to which Ld. Counsel for the respondents has no objection. With the consent of Ld. Counsel for the parties, we hereby dispose of the Original Application finally with the direction to the respondents to revise the pension of applicant in terms of letter No. 1(13)/2016/D(Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, within a period of three months from the date of receipt of copy of this order, if not already decided, and communicate to the applicant accordingly after verifying the documents. Let a copy of this order be provided to the learned Counsel for the parties. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 16 of 2018

Shishu 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents assisted by Maj Tarun, Departmental Representative are present. As prayed, list on **04.03.2021** for hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

O.A. No. 319 of 2015

Sanjay 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Virat Anand Singh, Ld. Counsel for the applicant and Mrs. Deepti P Bajpai, Ld. Counsel for the respondents are present. As prayed, list on **14.04.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

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

Maj Vinay Sharma Applicant
By Legal Practitioner for the Applicant

Versus

Secretary GOI MOD & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Col Y.R. Sharma (Retd), learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents are present. During the course of hearing learned counsel for the applicant submitted that since applicant has moved an application seeking certain amendments in the relief clause of O.A., therefore, said application be decided first before final hearing. To this, learned counsel for the respondents seeks and is allowed two weeks time to file objection against amendment application. List this case on **17.03.2021** for hearing showing the name of applicant as 'Maj Vinay Sharma' and word '(Retd)' will be deleted. On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** SB

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

O.A. No. 421 of 2018

Jai Bahadur 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
	23.02.2021 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri R. Chandra, learned counsel for the applicant and Shri Shyam Singh, learned counsel for the respondents. Original Application is **dismissed**. For order, see our judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve) Member (A)** **(Justice Umesh Chandra Srivastava) Member (J)** SB