

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

O.A. No. 63 of 2018

Vijaypal Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri K.K. Misra, learned counsel for the applicant and Shri D.K. Pandey, learned counsel for the respondents.</p> <p>2. Applicant has filed present application under Section 14 of the Armed Forces Tribunal Act, 2007 and has sought following reliefs:-</p> <p style="padding-left: 40px;">“(i) To quash the GRENADIERS Records letter No. 2685405K/SR/F-Pen dt 25 Feb 2017 (Annexure A-9 to OA).</p> <p style="padding-left: 40px;">(ii) To direct the respondents to grant Liberalized pension of his son to the applicant as per his entitlement from the date of his wife's death, ie. 19.04.2016.</p> <p style="padding-left: 40px;">(iii) To direct the respondents to pay the arrears of Liberalized pension with interest as applicable.</p> <p style="padding-left: 40px;">(iv) Any other relief which the Hon'ble Tribunal may consider appropriate may be granted in favour of the applicant.</p> <p style="padding-left: 40px;">(v) Cost of the application be awarded to the applicant.”</p> <p>3. Admittedly, the applicant's son Babin Kumar was enrolled in Indian Army in GRENADIERS Regiment on 23.07.1992. While serving with 20 GRENADIERS, Gdr Babin Kumar was martyred during OP RAKSHAK on 20.05.1996. He had rendered 03 years, 10 months and 05 days of service and his death was declared as Battle Casualty. Accordingly, Smt Kanti Devi mother (Next of Kin) of deceased soldier was granted Liberalised Family Pension w.e.f. 29.05.1996 till widowhood vide Pension Payment Order dated 19.07.1996. Smt Kanti Devi has died on 19.04.2016, therefore, PCDA (P)/Bank authorities have stopped Liberalized Family Pension. Therefore, the applicant sent a letter dated 31.05.2016 to GRENADIERS Records, Jabalpur requesting them to grant Liberalised Family Pension to him which was denied by the respondents vide letter dated 08.09.2016. Thereafter, applicant submitted many letters dated 03.10.2016, 28.11.2016 and 01.01.2017 which was replied by GRENADIERS Records vide letter dated 25.02.2017, rejecting request of applicant for grant of Liberalised Family Pension. Now father of deceased</p>

soldier, Ex Sep (Reservist) Vijaypal Singh has filed the present original application for grant of Liberalized Family Pension after death of Smt. Kanti Devi, wife of the applicant and mother of deceased soldier Gdr Babin Kumar.

4. It is pertinent to mention here that during the pendency of case, the applicant Vijaypal Singh also died on 04.05.2021 due to corona virus and the O.A. got abated. Now Mr. Rajesh Teotia, son of applicant, Late Vijaypal Singh alongwith one son (Mr. Raju Singh Teotia, aged 44 years) and two daughters (Mrs Suman Devi, aged about 51 years and Mrs. Mamta Chaudhary, aged about 40 years) have filed substitution application (M.A. No. 366 of 2021) being successors to substitute name of Mr. Rajesh Teotia in place of Late Vijaypal Singh and unanimously agreed to grant Liberalised Family Pension to Mr. Rajesh Teotia, the applicant in substitution application.

5. On perusal of substitution application, it is found that Mr. Rajesh Teotia and his brother and two sisters, as mentioned above, all are married and above 25 years of age, hence, as per para 66 & 67 of Pension Regulations for the Army, 2008 (Part-1), they are not meeting the criteria for successors/family of the applicant, Late Vijaypal Singh for grant of Liberalised Family Pension. Therefore, substitution application is dismissed.

6. Since, the substitution application is dismissed, the case cannot proceed further. However, it is felt necessary to put forth submissions of both the parties.

7. Learned counsel for the applicant submitted that after the death of wife of the applicant, applicant has become entitled for grant of Liberalised Family Pension being father of the deceased soldier. He further submitted that GRENADIERS Records had denied pension to the applicant on the ground that applicant is in receipt of reservist pension but it cannot be denied to him on the grounds of his financial condition or entitlement already available to him.

8. Per contra, submission of learned counsel for the respondents is that as per Para 219 of Pension Regulation for the Army, 1961 (Part-1), "A relative specified in paragraph 216 of Pension Regulation shall be eligible for the grant of family pension, if he or she is not in receipt of another pension from Government". In the instant case, the applicant has agreed in O.A. that he is a reservist pensioner. Hence, as per para 216 & 219 of Pension Regulation for the Army, 1961 (Part-1), and para 66 & 67 of new Pension Regulation for the Army, 2008 (Part-1), neither the applicant nor the successors as claimed in substitution application are entitled for Liberalised Family Pension.

9. Since the applicants' wife who was in receipt of Liberalised Family Pension had died on 19.04.2016 and applicant has also died on 04.05.2021, the present matter should be governed by the new Pension Regulations for the Army, 2008. Regulation 66 defines 'Family', which consists of four categories i.e. wife/husband, judicially separated wife/husband, unmarried daughters/unmarried sons and parents wholly dependent on the service personnel when the deceased soldier was alive. Regulation 67 of the new

Pension Regulations deals with the period for which family pension is payable. The said Regulations 66 & 67, being relevant, are reproduced as follows:

“DEFINITION OF FAMILY

66. Family for the purpose of Regulations in this Section shall consist of the following:

- (i) Wife in the case of male service personnel or husband in the case of female service personnel lawfully married before or after retirement.
- (ii) A judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery.
- (iii) Unmarried daughters/unmarried sons (including those legally adopted), widowed/divorced daughters.
- (iv) Parents who were wholly dependent on the service personnel when he was alive.

Notes: 1- Eligible son/daughter includes a posthumous child.

2- In case Service personnel get married after release/retirement /discharge /invalidment the marriage should be registered with the Registrar of the Marriages or other competent authority under the relevant law. In case where such marriage is not registered for some valid reasons, an affidavit sworn before a Magistrate or legal heirship certificate can be furnished.

3. Widowed/divorced daughter including disabled widowed/divorced daughter need not come back to her parental home

4. Child/children born out of the void marriage shall be entitled to share ordinary family pension, if otherwise eligible, though their mother would not have been eligible for the same had she been alive at the time of death of her husband on account of marriage being null and void.

PERIOD FOR WHICH ORDINARY FAMILY PENSION PAYABLE

67. The period for which ordinary family pension is payable shall be as follows:

- (i) In case of a widow or widower upto the date of death or marriage, whichever is earlier.
- (ii) In the case of eligible unmarried son, till he attains the age of 25 years or upto the date of his marriage, whichever is earlier and subject to income criteria as given in Note-2 below:
- (iii) In the case of eligible daughter, till she attains the age of 25 years or upto the date of her marriage, which ever is earlier and subject to income criteria is given in Note-2 below :

Provided that a unmarried daughter above the age of 25 years, a widowed/divorced daughter irrespective of her age and son or daughter who is suffering from any disorder or disability of mind including mentally retarded or physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of 25 years, the family pension shall be payable to such son or daughter for life.

Notes:1. Eligible son/daughter including widowed/divorced daughter shall furnish to his Pension Disbursing Authority a half yearly certificate in regard to marital status.

2. Eligible son/daughter including widowed/divorced daughter shall be paid ordinary family pension if his/her earning is not more than Rs 2550/- per month from all sources including pay and or pension. He will also submit annually a certificate to the effect that his earning is not more than Rs. 2550/- per month to his Pension Disbursing Authority.”

10. In view of the above, we are of the view that after the death of applicant, Vijaypal Singh, all new applicants as claimed in substitution application are not meeting the criteria for grant of Liberalised Family Pension as per para 66 & 67

of Pension Regulations for the Army, 2008 (Part-1).

11. In consequence, we are of the opinion that O.A. is devoid of merit, deserves to be dismissed and is accordingly, **dismissed**.

12. No order as to costs.

13. Pending misc. applications, if any, are disposed off.

(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. 28 of 2020 with M.A. No. 659 of 2019

Ex. Sgt. Prakash Chandra Dey
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u></p> <p><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri Vinay Pandey, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents.</p> <p>The Original Application has been filed with delay of 09 years and 15 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation of delay.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p><u>O.A. No. 28 of 2020</u></p> <p>Heard Shri Vinay Pandey, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents.</p> <p>Original Application is allowed.</p> <p>For order, see our Judgment passed on separate sheets.</p> <p>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 391 of 2021 with M.A. No. 399 of 2021

Ex. MWO Ram Lakhan Yadav
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Shri Ramesh Chandra Shukla, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri Sudhir Kumar Singh, Ld. Counsel for the applicant and Shri Ramesh Chandra Shukla, Ld. Counsel for the respondents.</p> <p>As per office note, there is no delay in filing Original Application, therefore, delay condonatin application filed by the applicant is dismissed.</p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 28.09.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 20.10.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 392 of 2021

<p>L/Nk. Ravindra Nath Bind By Legal Practitioner for the Applicant</p>	<p>Versus</p>	<p>Applicant</p> <p>Respondents</p>
<p>Union of India & Others By Legal Practitioner for Respondents</p>		

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: justify;">Ms. Appoli Srivastava, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p style="text-align: justify;">Heard Shri Ashok Kumar and Shri Pramod Kumar Pandey, Ld. Counsel for the applicant and Ms. Appoli Srivastava, Ld. Counsel for the respondents.</p> <p style="text-align: justify;">It is a fit case for adjudication.</p> <p style="text-align: justify;">Admit.</p> <p style="text-align: justify;">It is stated that copy of impugned order supplied to the Ld. Counsel for the respondents is not legible.</p> <p style="text-align: justify;">Applicant is, therefore, directed to supply legible copy of the impugned order to the Ld. Counsel for the respondents within a week.</p> <p style="text-align: justify;">Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p style="text-align: justify;">List the matter before Registrar on 28.09.2021 for exchange of pleadings.</p> <p style="text-align: justify;">List the matter before Tribunal on 20.10.2021.</p> <p style="text-align: justify; margin-top: 20px;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p style="margin-top: 20px;">AKD/-</p>

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

O.A. No. 393 of 2021 with M.A. No. 400 of 2021

Ex. Hav. Mangla Prasad Mishra
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Shri Arvind Kumar Pandey, Advocate filed Memo of Appearance today in Court on behalf of the respondents which is taken on record.</p> <p>Heard Shri Ashok Kumar, Ld. Counsel for the applicant and Shri Arvind Kumar Pandey, Ld. Counsel for the respondents.</p> <p>The Original Application has been filed with delay of 26 years and 04 months.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation of delay.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p><u>O.A. No. 393 of 2021</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 28.09.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 20.10.2021.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align:right">(Justice Umesh Chandra Srivastava) Member (J)</p> <p style="text-align:left">AKD/-</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
M.A. No. 395 of 2021 Inre : O.A. No. (Nil) of 2021

Smt. Mohini W/o Late Sep. Satyendra Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Defects have been removed.</p> <p style="text-align: center;">Heard Shri Angrej Nath Shukla, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents.</p> <p style="text-align: center;">The matter pertains to grant of special family pension.</p> <p style="text-align: center;">In view of averments made in affidavit filed in support of delay condonation application, delay is condoned.</p> <p style="text-align: center;">Delay condonation application stands disposed off accordingly.</p> <p style="text-align: center;">Let Original Application be registered.</p> <p><u>O.A. No. 396 of 2021</u></p> <p style="text-align: center;">Heard Shri Angrej Nath Shukla, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Shri Angrej Nath Shukla, Ld. Counsel for the applicant submits that Original Application may be disposed off with direction to the respondents to decide the applicant's applications dated 09.10.2019 and 04.06.2021, which are pending with the respondents, to which Ld. Counsel for the respondents has no objection.</p> <p style="text-align: center;">With the consent of Ld. Counsel for the parties, we hereby dispose off the Original Application finally with the direction to the respondents to decide the applicant's applications dated 09.10.2019 and 04.06.2021, contained as Annexure Nos. 1 and 2 of Original Application, by a speaking and reasoned order in accordance with law, if not already decided, within a period of four months from the date of receipt of copy of this order and communicate the decision to the applicant accordingly.</p> <p style="text-align: center;">Let a copy of this order be provided to the learned Counsel for the parties.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 364 of 2018 along with T.A. No. 38 of 2016 (Decided)

Ex. Sepoy (SKT) Kirpal Singh Applicant
By Legal Practitioner for the Applicant

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col. Ashok Kumar (Retd.) and Shri Rohit Kumar, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents are present.</p> <p>On the request of Ld. Counsel for the respondents three weeks further time is granted to file detailed Counter Affidavit.</p> <p>List on 31.08.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 209 of 2020 with M.A. No. 104 of 2020

Col. Shyam Sunder Rai (Retd.)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri S.G. Singh and Shri Anand Yadav, Ld. Counsel for the applicant and Shri Adesh Kumar Gupta, Ld. Counsel for the respondents.</p> <p style="text-align: center;">The Original Application has been filed with delay of one year.</p> <p style="text-align: center;">Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application.</p> <p style="text-align: center;">Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation of delay.</p> <p style="text-align: center;">Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p style="text-align: center;">Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p><u>O.A. No. 209 of 2020</u></p> <p style="text-align: center;">Heard Shri S.G. Singh and Shri Anand Yadav, Ld. Counsel for the applicant and Shri Adesh Kumar Gupta, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Original Application is allowed.</p> <p style="text-align: center;">For order, see our Judgment passed on separate sheets.</p> <p style="text-align: center;">Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 632 of 2020

Ex. Nk. Anand Kumar Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Manish Misra and Shri Sandeep Shukla, Ld. Counsel for the applicant and Dr. Chet Narain Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on 04.10.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 705 of 2020

Smt. Ganga Devi W/o Late Ex. Hav. Sher Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Parijaat Belaura, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents are present.</p> <p>On the request of Ld. Counsel for the respondents two weeks and, no more, time is granted to file Counter Affidavit.</p> <p>List on 31.08.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

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

O.A. No. 263 of 2021

Exp/OR A Bipul Kumar Chaudhary
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col. A.K. Srivastava (Retd.), Ld. Counsel for the applicant and Shri Kaushik Chatterjee, Ld. Counsel for the respondents are present.</p> <p>List on 27.07.2021 at 02.30 PM for physical hearing.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

R.A. No. 57 of 2019 Inre : O.A. No. 523 of 2019

Hony. Nb. Sub. Jeet Bahadur
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri V.P. Pandey, Ld. Counsel for the applicant and Dr. Chet Narain Singh, Ld. Counsel for the respondents.</p> <p>Ld. Counsel for the applicant submitted that applicant was required to file a calculation sheet regarding payment due and received, however, the same could not be done due to illness of the applicant.</p> <p>Applicant is seeking time to file calculation sheet since long.</p> <p>We have gone through the record of the case and find that order under execution has been complied with.</p> <p>In the result, application deserves to be dismissed in full and final satisfaction.</p> <p>Accordingly, review application is dismissed.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 305 of 2017

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

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col. Ashok Kumar (Retd.) and Shri Rohit Kumar, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p>List on 20.10.2021.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 517 of 2017

Rahul Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Vinay Pandey, Ld. Counsel for the applicant and Shri Ram Saran Awasthi, Ld. Counsel for the respondents are present.</p> <p>List on 20.10.2021.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 97 of 2018

Peskar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align:justify">Shri D.C. Lohumi, Advocate filed Power today in Court on behalf of the respondent No. 3 – State Bank of India which is taken on record.</p> <p style="text-align:justify">On the case being taken up for hearing Shri Ashok Kumar, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondent nos. 1 and 2 and Shri D.C. Lohumi, Ld. Counsel for the respondent No. 3 (State Bank of India) are present.</p> <p style="text-align:justify">Supplementary Affidavit filed by the applicant is also taken on record.</p> <p style="text-align:justify">Ld. Counsel for the respondent No. 3 seeks and is allowed two weeks time to file Counter Affidavit.</p> <p style="text-align:justify">List on 23.09.2021 for hearing.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align:center">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 578 of 2019

L Nk / Clk Shiv Pratap Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col BP Singh (Retd), learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present.</p> <p>Pleadings are complete and the case is ripe for hearing.</p> <p>List on 13.10.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 311 of 2020

Smt Prabhawati Devi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri BB Tripathi and Shri Amit Verma, learned counsel for the applicant and Dr. Chet Narain Singh and Shri Gaurav Gunjan, learned counsel for the respondents are present.</p> <p>In rejoinder affidavit filed by the applicant he it has been stated that bank has not made payment as per Annexure-4. It has also been stated that no calculation sheet has been filed with regard to payment made.</p> <p>Respondents No 4 to 5 are directed to submit calculation sheet with regard to payment made to applicant by 26.08.2021.</p> <p>List on 26.08.2021 for orders.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 414 of 2020 Inre M.A. No. 265 of 2021

Km Basanti D/O Ex Late Sep Madhav Singh

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri KP Datta, learned counsel for the applicant and Dr. SN Pandey, learned counsel for the respondents are present.</p> <p>Supplementary counter affidavit filed by the respondents is taken on record.</p> <p><u>M.A. No. 265 of 2021</u></p> <p>In view of averments made in affidavit, correction application is allowed. Aforesaid M.A. is disposed off.</p> <p><u>O.A. No. 414 of 2020</u></p> <p>Let order dated 02.11.2020 be corrected accordingly.</p> <p>Heard.</p> <p>For order, see judgment on separate sheets.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 471 of 2020

Ex Rect Rupendra Prasad
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col AK Srivastava (Retd), learned counsel for the applicant and Mrs. Anju Singh, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the applicant, list on 30.07.2021.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 20 of 2021

Lt Col Kapil Khandelwal
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Vinay Pandey and Shri Chandra Bhan Singh, learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents are present.</p> <p>On the request made by learned counsel for the applicant, two weeks and no more time is granted to file rejoinder affidavit.</p> <p>List on 21.10.2021.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 33 of 2021

Sub Maj Bibhu Prasad Samal
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Manoj Kumar Awasthi, learned counsel for the applicant and Shri RC Shukla, learned counsel for the respondents are present.</p> <p>List on 21.10.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. (A) No. 197 of 2015

Ex LAC Shubham Yadav

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri KKS Bisht, learned counsel for the applicant and Mrs. Deepti P Bajpai, learned counsel for the respondents are present.</p> <p>Pleadings are complete and the case is ripe for hearing.</p> <p>List on 21.10.2021 for hearing.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

T.A. No. 596 of 2010

Udai Veer Singh

By Legal Practitioner for the Petitioner

Petitioner

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: justify;">On the case being taken up for hearing Col BP Singh (Retd), learned counsel for the petitioner and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present.</p> <p style="text-align: justify;">Pleadings are complete and the case is ripe for hearing.</p> <p style="text-align: justify;">List on 22.10.2021 for hearing.</p> <p style="text-align: center;"> (Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) </p> <p>rathore</p>

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

O.A. No. 470 of 2012

Naseebul Hasan Syed
By Legal Practitioner for the Applicant

Applicant

Versus

Chief of Army Staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col AK Srivastava (Retd), Shri Dharam Raj Singh and Shri Shyam Sunder Bajpai, learned counsel for the applicant and Shri Asheesh Agnihotri, learned counsel for the respondents are present.</p> <p>Pleadings are complete and the case is ripe for hearing.</p> <p>List on 27.08.2021 for physical hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

Dy No 1277 of 2021 Inre M.A. No 250 of 2021 Inre O.A. No Nil of 2021

Hav Mukhram Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>23.07.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri Ved Prakash, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents.</p> <p>2. Learned counsel of both parties are connected through video conference as Shri Ved Prakash had expressed his inability for physical hearing due to being not vaccinated.</p> <p>3. Learned counsel for the applicant submitted that defects have been removed, one of the previous counsel has given consent to him for filing of recall-cum-review application. He further submitted that he is the sole counsel for the applicant who had requested Mr. Virat Anand Singh, Advocate, who erroneously filed bail application instead of parole application. He further submitted that applicant has filed a post confirmation petition to the competent authority which has not yet been decided. An appeal against finding of conviction and sentence can only be filed after post confirmation petition is decided. He further submitted that respondents learned counsel misled the Tribunal relating to filing of writ petition that applicant conceded material facts while obtaining the order dated 12.05.2017. In writ petition filed in Hon'ble Rajasthan High Court, illegality committed in GCM proceedings and that provisions of POCSO Act are not attracted in the matter are challenged which has nothing to do with parole.</p>

4. Learned counsel for the respondents, in turn, submitted that recall-cum-review application is not maintainable for no affidavit being filed along with it. He further submitted that applicant is guilty of concealment as in writ petition he has claimed stay of effect and operation of the order of conviction and sentence passed by the GCM. He also submitted that interim bail/parole can be claimed and granted in appeal only and decision in post confirmation petition is not must for filing of appeal.

5. Shri Vinay Pandey, previous applicant's counsel has submitted 'No objection' in favour of Shri Ved Prakash, learned counsel who has filed recall-cum-review application. Thus, defect in this regard stands removed. However, as no affidavit mandatorily required under Sub Rule (5) of Rule 18 of The Armed Forces Tribunal (Procedure) Rule, 2008, has been filed, therefore, review application deserves to be dismissed for this reason alone.

6. Even otherwise, impugned order has been passed after hearing both parties which cannot be recalled on the ground of alleged illegality.

7. It is relevant to mention here that interim bail order dated 12.05.2021 in M.A. No 250 of 2021 Inre O.A. (Nil) of 2021 enlarging applicant on interim bail for 15 days was passed absolutely on humanitarian ground to enabling applicant to perform last rituals of his father who died during COVID Pandemic. It was passed under belief being passed in an appeal filed against the order of GCM under Section 15 (2) of the Armed Forces Tribunal Act, 2007 and applicant was directed to surrender before the authorities of District Jail, Lucknow, immediately after expiry of 15 days which he has not done till date. Applicant's plea for issuing direction to enable him to surrender in Central Jail Alwar, Rajasthan in place of District Jail, Lucknow, is not acceptable as he cannot be permitted to what he claims as per his choice.

8. This plea of the applicant is also not acceptable that as he has filed a post confirmation petition to the competent authority, as provided under sub Section (2) of Section 164 of the Army Act, 1950, and said petition is still under consideration, therefore, he can seek parole under Section 15 (6) (d) of the

Armed Forces Tribunal Act, 2007 without filing appeal. The order of parole can be claimed and granted in appeal only.

9. Impugned order has not been passed on reason of applicant being guilty of concealment of fact relating to filing of writ petition but for the reason that interim bail/ parole can be claimed and granted only in appeal filed against the order of conviction and sentence under Section 15 (6) of the Armed Forces Acts 2007, not otherwise.

10. In view of the aforesaid, we do not find any force in review application on merit also.

11. The recall cum review application is **dismissed** accordingly.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

UKT/-