

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

O.A. No. 580 of 2019

Smt. Neelam Singh W/o Ex. Rfn. (Late) Jitendra 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>25.01.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri Angrej Nath Shukla, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Heard.</p> <p style="text-align: center;">Order is reserved.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

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

Ex. Swr. Ashok Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Bachchan Singh, Ld. Counsel for the applicant and Dr. S.N. Pandey, Ld. Counsel for the respondents are present.</p> <p>Objection to the affidavit of compliance filed by the applicant is taken on record.</p> <p>Ld. Counsel for the respondents submitted that cost Rs.25,000/- has been deposited on 17.12.2020.</p> <p>Shri Bachchan Singh, Ld. Counsel for the applicant submitted that order under execution has not been complied with as respondents have not paid full back wages with all service benefits and pecuniary and promotional benefits and even details of dependents column in the P.P.O. is also left.</p> <p>In regard to above, submission of Ld. Counsel for the respondents submitted for time to seek instructions from the appropriate authority which is allowed.</p> <p>Let instructions be sought within two weeks.</p> <p>List on 23.02.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 95 of 2018 Inre : O.A. No. 143 of 2015

Shaikh Ibrahim 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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p>Shri Amit Jaiswal, Ld. Counsel for the respondents submitted that Special Leave Petition filed before the Hon'ble Apex Court is likely to be heard in February, 2021.</p> <p>In view of above, list on 05.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 65 of 2019 Inre : O.A. No. 253 of 2012

Ex. Hav. Krishna Kumar Thakur
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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col. Y.R. Sharma (Retd.), Ld. Counsel for the applicant and Shri D.K. Pandey, Ld. Counsel for the respondents are present.</p> <p>Shri D.K. Pandey, Ld. Counsel for the respondents submitted that respondents have filed a Special Leave Petition in the Hon'ble Apex court against the order of this Tribunal which is yet to be heard. He also admitted that there is no stay order in the Special Leave Petition.</p> <p>In the circumstances, respondents are directed to make compliance of the order within four weeks, failing which they shall be liable to pay Rs.10,000/- as cost payable to applicant.</p> <p style="text-align: center;">List on 18.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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ORDER SHEET

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

R.A. No. 14 of 2020 Inre : M.A. No. 162 of 2020 Inre : O.A. No. (Nil) of 2020

Smt. Jagviri Devi W/o Late Ex. Rfn. Rich Pal Singh By Legal Practitioner for the Applicant	Applicant
Versus	
Union of India & Others By Legal Practitioner for Respondents	Respondents

Notes of the Registry	Orders of the Tribunal		
	<p><u>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Fareed Ahmad, Ld. Counsel for the applicant and Shri G.S. Sikarwar, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Objection against Review Application filed by the respondents is taken on record.</p> <p style="text-align: center;">Since the objection has been filed in Tribunal without serving its copy to the applicant, respondents are, therefore, directed to serve the copy by today itself.</p> <p style="text-align: center;">List on 05.03.2021.</p> <table style="width: 100%;"><tr><td style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</td><td style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</td></tr></table> <p>AKD/-</p>	(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)
(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)		

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

O.A. No. 484 of 2018 with M.A. No. 113 of 2019

Nb. Sub. Jagbhan Singh Tomar
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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri J.N. Mishra, Ld. Counsel for the applicant and Shri G.S. Sikarwar, Ld. Counsel for the respondents are present.</p> <p>No Supplementary Counter Affidavit to the amended pleadings has been filed as yet.</p> <p>Ld. Counsel for the respondents prays for and is granted two weeks time to file the same.</p> <p>List on 25.02.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 155 of 2017 Inre : T.A. No. 1288 of 2010

Chandra Bhushan 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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Sudhir Kumar Singh, Ld. Counsel for the applicant and Shri Kaushik Chatterjee, Ld. Counsel for the respondents are present.</p> <p>Ld. Counsel for the applicant prays for and is granted two weeks to get name of his published in the newspaper from the side of his wife and to file disability certificate of his daughter.</p> <p>List on 18.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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Court No.1 (E. Court)

Ex. A. No. 35 of 2020 Inre : O.A. No. 146 of 2015

Devendra Singh Bhandari 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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Lalit Kumar, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>Sqn. Ldr. D.K. Deepak, Adjutant Medical Branch, Air Force Hospital, Jaisalmer is also present.</p> <p>Ld. Counsel for the applicant during the course of hearing admitted that as regards Liberalised Pension, Ex. Gratia and Gratuity, the part of the order has been executed. However, respondents have not complied the remaining part of the order as inquiry through independent agency is yet to be done.</p> <p>In reply, Sqn. Ldr. D.K. Deepak submitted that inquiry has already been completed on 22.05.2019 and gist of inquiry report has been submitted to the respondents' counsel Dr. Shailendra Sharma Atal, Advocate.</p> <p>Dr. Shaialendra Sharma Atal also admitted receipt of gist of inquiry and prayed for two weeks time to bring the same on record.</p> <p>Respondents are directed to file gist of report within two weeks and to produce the complete inquiry report before us for perusal on the next date fixed.</p> <p style="text-align: center;">List on 04.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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Court No.1 (E. Court)

Ex. A. No. 89 of 2017 Inre : O.A. No. 272 of 2013

Pravat Kumar Behuria
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>25.01.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Mukesh Kumar, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>Affidavit of compliance filed by the respondents is taken on record.</p> <p>Ld. Counsel for the applicant seeks and is allowed two weeks time to file objection.</p> <p>List on 26.02.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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Court No.1 (E. Court)

Ex. A. No. 31 of 2020 Inre : Ex. A. No. 126 of 2018 Inre : O.A. No. 13 of 2016

Ex. Dfr. Akash 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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: justify;">On the case being taken up for hearing Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p style="text-align: justify;">Ld. Counsel for the applicant submitted that order has been complied with.</p> <p style="text-align: justify;">Accordingly, Execution Application is dismissed in full and final satisfaction.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;"> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> </div> <div style="text-align: center;"> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> </div> </div> <p style="margin-top: 10px;">AKD/-</p>

Form No. 4
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 32 of 2020 Inre : O.A. No. 161 of 2017

Ex. Gdsm. Biresh 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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Ld. Counsel for the respondents submitted that matter regarding execution of order is pending with Army Headquarters,</p> <p style="text-align: center;">Respondents are directed to make compliance of the order within four weeks failing which they shall be liable to pay Rs.15,000/- as cost to the applicant.</p> <p style="text-align: center;">List on 19.03.2021.</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
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 221 of 2018

Girish Chandra
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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri Yashpal Singh, learned counsel for the applicant and Shri Adesh Kumar Gupta, learned counsel for the respondents.</p> <p>1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-</p> <p>(I) <i>Issue/pass an order or direction setting aside the recommendations of the Invaliding Medical Board dated 07.10.2003 to the extent the same hold the disability of the applicant neither attributable to nor aggravated by the Army service, letter/order dated 18.11.2004 issued by the pension sanctioning authority, letter/order dated 20.11.2006 intimating the decision of the Appellate Committee on the First Appeal rejecting the appeal and letter/order dated 17.03.2008 intimating the decision of the Defence Minister's Appellate Committee on Pension rejecting the second appeal, after summoning the relevant original records.</i></p> <p>(II) <i>Issuing/passing of an order directing the respondents to consider case of the applicant for grant of disability pension and provide the same from the date of discharge, i.e. 05.11.2003 including arrears and interest, and also the benefit of rounding off and other consequential benefits of ex-serviceman.</i></p> <p>(III) <i>Issuing/passing of any other order or direction as this Hon'ble Tribunal may deem fit under the circumstances of the case.</i></p>

(IV) Allow this Original Application with cost.

2. Brief facts of the case are that the applicant was enrolled in the Indian army on 20.01.2003 and was invalided out of service w.e.f. 04.11.2003 in low medical category '(S5)' due to 'SCHIZOPHRENIA F-20.0'. The Invaliding Medical Board (IMB) has assessed his disability @ 30% for life neither attributable to nor aggravated by military service (NANA). Applicant's disability pension claim was rejected vide order dated 18.11.2004. Thereafter, first and second appeals were also rejected vide orders dated 20.11.2006 and 17.03.2008 respectively. Applicant has filed this O.A. for grant of disability pension.

3. 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 basic military training which may have led to occurrence of the disability. He pleaded for disability pension to be granted to applicant.

4. On the other hand, learned counsel for the respondents submitted that applicant, while undergoing basic military training, was admitted to Military Hospital, Gaya on 21.04.2003 on account of abnormal behaviour, irrelevant talk, falling on the ground and showing odd movements of both limbs. After initial observation, he

was transferred to Military Hospital, Danapur where he was administered treatment and was found suffering from 'Schizophrenia F-20'. He further submitted that after thorough investigation, the Psychiatrist Specialist found him unfit for further military service and recommended him to be invalided out of service in medical category 'S5'. Accordingly, as per opinion of the medical specialist, applicant was invalided out from service w.e.f. 05.11.2003. The medical board has recommended applicant's percentage of disability @ 30% 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 appellate authorities 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.

5. We have perused the material placed on record.

6. On careful perusal of the medical documents, it has emerged that applicant was enrolled on 20.01.2003 and during basic military training on 21.04.2003, he was admitted to Military Hospital, Gaya for his abnormal behaviour from where he was transferred to Military Hospital, Danapur. On investigation, Additional Advisor Psychiatry and Medicine gave following report on applicant's disease:

"20 yrs old recruit with about 2 months of trg was admitted in MH, Gaya on 21 Apr 2003 with history of abnormal behaviour of acute onset, presenting with irrelevant talk, falling on the ground, following odd movements of both limbs. After initial observation, he was transferred to MH, Danapur for further psychiatric evaluation and management.

x x x x x x x x

Details of history revealed that the rect was alright, 02

May 03, when suddenly he was found to be talking irrelevantly, fell down on the ground, started flanging his limbs. He told that some 'Peerbaba' had possessed him and controlling all his activities against his will and ordering him to do certain things. He also felt that other unit people had turned against him and talking ill of him, with above oddity in behaviour, he was brought to MI Room, ASC Centre, Gaya. He was referred to MH, Gaya and later on transferred to MH, Danapur.

x x x x x xxxxxx

Psychiatrically on admission he was found to be not in contact with reality. Talk was irrelevant. Persecutory delusions, delusions of reference and delusions of control were present. Auditory hallucinations were present. No cognitive impairment found. His insight and judgment were impaired.

He has been treated with antipsychotic drugs, antidepressants and psychotherapy to which he has responded gradually. He is not deluded or hallucinated now, but residual features in form of constricted affect, lack of initiative and partial insight are still persisting.

In view of psychotic illness in recruit with unsatisfactory response, he is not considered fit for further military service.

Recommended to be invalided out of service in category S5 (five)."

7. Since the applicant, being a recruit, was recommended to be in Category S5, an Invaliding Medical Board (IMB) was carried out at Military Hospital, Danapur on 16.10.2003 which recommended him to be invalided out from service in medical category S5 with 30% disablement for life neither attributable to nor aggravated by military service. He was also advised to maintain anti psychotic medication for five years.

8. The applicant, as a recruit, developed symptoms of this disease for the first time within three months of enrolment. Three to 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 'SCHIZOPHRENIA F-20.0' is not connected to military service as opined by the IMB. Further, the Appellate Committee on First Appeals (ACFA) has also examined applicant's

disability in the light of relevant rules and finally rejected being neither attributable to nor aggravated by military service. We are in agreement with the opinion of IMB proceedings and First Appellate Committee. 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 three months of enrolment, we are in agreement with the opinion of IMB that the applicant's disability is neither attributable to nor aggravated by military service and he is not entitled to disability pension.

9. Apart from it, in identical factual background this Tribunal dismissed T.A. No. 1462/2010, ***Bhartendu Kumar Dwivedi vs. Union of India and 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'. 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.

10. 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 Supreme Court that mental disorders cannot be detected at the time of recruitment and their

subsequent manifestation (in this case within three 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.”

11. In view of the above, applicant is not entitled to disability pension.

12. 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)

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

Ex. A/6 of 2020 Inre O.A. No. 148 of 2018

Ex Spr Raj Kumar Verma
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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R Chandra, learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents.</p> <p>Capt Priyanka Rathore, Departmental Representative is also present and she submits that concerned Record Office has sought clarification regarding non payment of service element, and since reply is awaited, hearing be adjourned.</p> <p>As prayed, four weeks time is granted to respondents on payment of Rs 15,000/- as cost to ensure complete compliance as disability pension includes service element also.</p> <p>List on 16.03.2021.</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
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex. A. No. 203 of 2017 Inre O.A. No. 374 of 2017

Lt Col Rakesh Nandkeolyar (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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R Chandra, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present.</p> <p>Learned counsel for the respondents submitted that order under execution has been complied with. He further submitted that cost amounting to Rs 50,000/- has also been deposited today.</p> <p>In the result, execution application is dismissed in full and final satisfaction.</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)

Ex. A. No. 54 of 2019 Inre T.A. No. 623 of 2010

Smt Shalini Mishra, W/o (Late) Sep Ajai Kumar Mishra 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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R Chandra, learned counsel for the petitioner and Shri Anurag Mishra and Ashutosh Kumar Srivastava, learned counsel for the respondents are present.</p> <p>Objection filed on behalf of the respondent No. 5 is taken on record.</p> <p>Order in chamber.</p> <p style="display: flex; justify-content: space-between;">(Vice Admiral Abhay Raghunath Karve) Member (A)(Justice Umesh Chandra Srivastava) Member (J)</p> <p>rathore</p>

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

M.A. No. 925 of 2019 Inre O.A. (Nil) of 2019

Lt Col Uma Shankar (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
	<p><u>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R Chandra, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the applicant, list on 10.02.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

R.A. No. 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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>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.</p> <p>Shri Rajiv Tiwari, Accounts Officer, PCDA (P), Prayagraj is also present and he submitted that applicant is in receipt of pension of Hony Naib Subedar as per letter dated 21.02.2020. He further submitted that applicant is receiving Rs 21,653/- per month as pension and he has also received a sum of Rs 2,53,220/- as arrears.</p> <p>In regard to aforesaid, submission of learned counsel for the applicant is that applicant is still not in receipt of pension as per letter dated 21.02.2020.</p> <p>Applicant is directed to file calculation chart of the amount payable as well as the amount received between 01.01.2006 till date within three weeks.</p> <p>List on 03.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

M.A. NO. 384 of 2020 with M.A. No. 385 of 2020
Inre O.A. No. 239 of 2011

Smt Neelam 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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Veer Raghav Chaubey, learned counsel for the applicant and Shri Alok Kumar Mishra, learned counsel for the respondents are present.</p> <p style="text-align: center;">Pass over.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

M.A. No. 300 of 2020 Inre O.A. (Nil) of 2019

Ex Sep Pankaj Kumar Rai
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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri Vinay Pandey, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents.</p> <p>1. Brief facts of the case are that the applicant was serving in the army w.e.f. 28.06.1993. On 27.02.1999 applicant escaped from unit and remained absent till arrest by Bangalore Police on 18.05.2001. He was booked under sections 302, 307, 392, 397, 328 and 420 of IPC and Section 25 of Arms Act. The applicant was convicted and sent to jail. He was enlarged on bail on 04.02.2013 by Hon'ble Supreme Court in Criminal Appeal No 25/2013, <i>Pankaj Kumar Rai vs State of Karnataka</i>. The said Criminal Appeal is still pending. After release on bail, the applicant is said to have contacted army authorities in the year 2013 to rejoin services but was denied. This O.A. has been filed after a prolonged delay.</p> <p>2. There is a delay of 19 years, 11 months and 18 days in filing Original Application through which prayer is made for re-instatement in service and compensation of Rs 20 lakhs.</p> <p>3. While arguing, learned counsel for the respondents submitted that on account of being absent from duty, the applicant was declared deserter and his services were terminated w.e.f. 18.04.2003.</p> <p>4. It is argued by learned counsel for the applicant that the applicant, after release, was busy in earning bread and butter for his family including growing of his children and that is why he could not contact any counsel till the year 2018 and he filed this O.A. in this Tribunal on 17.09.2019.</p> <p>5. Learned counsel for the applicant further submitted that delay in filing Original Application is not deliberate, but on account of poverty and aforesaid reasons, therefore, the same should be condoned.</p> <p>6. On the other hand, learned counsel for the respondents has vehemently opposed the prayer and has submitted that there is a long delay of more than</p>

19 years and the same has not been properly and satisfactorily explained as the applicant has not assigned any cogent and convincing reason for not approaching the Tribunal earlier.

7. Having heard submissions of learned counsel of both sides and considering the facts and circumstances of the case, we find that inordinate delay of more than 19 years has not been properly and satisfactorily explained.

8. Needless to say, in a matter where Original Application is not filed within time, applicant is required to explain delay on day to day basis, which applicant has miserably failed and, therefore, he is not entitled to benefit of his so called poverty and nourishing his family.

9. In view of the above, delay is not liable to be condoned, therefore application is **rejected**.

10. Original Application being time barred is also **rejected**.

(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. 112 of 2020 with M.A. No. 975 of 2019

Smt Santosh Dwivedi, W/o Ex Nk Rama Shankar 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
	<p><u>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Vinay Pandey, learned counsel for the applicant and Shri DK Pandey, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the applicant two weeks and no more time is granted to file rejoinder affidavit.</p> <p>List on 19.02.2021.</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)

Ex. A/36 of 2020 Inre O.A. No. 99 of 2019

<p>Ex Nb Sub Nijaguni Parwata Math By Legal Practitioner for the Applicant</p>	Versus	<p style="text-align: right;">Applicant</p> <p style="text-align: right;">Respondents</p>
<p>Union of India & Others By Legal Practitioner for Respondents</p>		

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: justify;">On the case being taken up for hearing Shri Yashpal Singh, learned counsel for the applicant and Shri RC Shukla, learned counsel for the respondents are present.</p> <p style="text-align: justify;">Learned counsel for the respondents submitted that PPO has been issued. He further submitted that two weeks time be given to file affidavit of compliance.</p> <p style="text-align: justify;">Let affidavit of compliance be filed within two weeks.</p> <p style="text-align: justify;">List on 26.02.2021.</p> <p style="text-align: justify;"> (Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J) </p> <p>rathore</p>

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

O.A. No. 141 of 2018

Niraj Kumar Roy
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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri KKS Bisht, learned counsel for the applicant and Mrs Anju Singh, learned counsel for the respondents are present.</p> <p>Pleadings are complete and the case is ripe for hearing.</p> <p>List on 12.04.2021 for final hearing.</p> <p>On the date fixed, learned counsel for the respondents shall file original documents pertaining to the case for perusal of the Bench.</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>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. 213 of 2018

Jaivir 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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri JN Mishra, learned counsel for the applicant and Ms Appoli Srivastava, learned counsel for the respondents are present.</p> <p>Shri JN Mishra, learned counsel for the applicant submits that Original Application may be disposed off with direction to the respondents to revise the pension of applicant in terms of letter No.1(13)/2016/D (Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, to which Ms Appoli Srivastava, learned counsel for the respondents has no objection.</p> <p>With the consent of learned counsel for the parties, we hereby dispose of the Original Application finally with the direction to the respondents to revise the pension of applicant in terms of letter No. 1(13)/2016/D (Pen/Policy) dated 21.02.2020 issued by Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi, within a period of three months from the date of receipt of copy of this order and communicate to the applicant accordingly after verifying the documents.</p> <p>Let a copy of this order be provided to the learned counsel for the parties.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 381 of 2019

Mahesh Chandra Sharma

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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri P.K. Khare, Ld. Counsel for the applicant and Ms. Deepti P Bajpai, Ld. Counsel for the respondents are present.</p> <p>Pleadings are complete and the case is ripe for hearing.</p> <p>List this case on 10.02.2021 for hearing.</p> <p>On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

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

O.A. No. 56 of 2021

Ex WO Ram Ashray 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>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align:justify">On the case being taken up for hearing Col B.P. Singh (Retd), Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align:justify">In Para 4 of the counter affidavit respondents have stated that applicant was repatriated to his parent department immediately after his disability being detected in 1976. This needs reply by way of rejoinder affidavit.</p> <p style="text-align:justify">Let rejoinder affidavit be filed within two weeks.</p> <p style="text-align:justify">List this case on 26.02.2021 for hearing.</p> <p style="text-align:justify">On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p style="text-align:left">SB</p>

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

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

Lt Col Balram Tiwari
 By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
 By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
<p><u>25.01.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Ajai Kumar Pandey, Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List this case on 29.01.2021 for physical hearing.</p> <p style="text-align: center;">On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>SB</p>	

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

O.A. No. 326 of 2019

Ex Rect Chandra Kant 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>25.01.2021</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri Sudhir Kumar Singh, Ld. Counsel for the applicant and Dr. Chet Narain Singh, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Original Application is dismissed.</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>SB</p>