

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

O.A. No. 382 of 2017

Col. Dilip Singh Shekhawat
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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p>Present: Shri Virat Anand Singh, Ld. Counsel for the applicant and Shri G.S. Sikarwar, Ld. Counsel for the respondents.</p> <p>Ld. Counsel for the applicant prays for adjournment on the ground that the arguing Counsel Shri Ravi Prakash Tripathi is not available today. Accordingly, the case is adjourned.</p> <p>It is also submitted by the Ld. Counsel for the applicant that the applicant does not intend to file Rejoinder Affidavit. He submits that the pleadings are complete and the case may be listed for hearing.</p> <p>List this case on 08.03.2019 for hearing.</p> <p>On the date fixed Ld. Counsel for the respondents shall produce the original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>AKD/UKT/-</p>

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

O.A. No. 609 of 2017

Gajendra 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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p>Present: Shri K.K. Misra , Ld. Counsel for the applicant and Dr. Gyan Singh, Ld. Counsel for the respondents.</p> <p>It is submitted by the Ld. Counsel for the applicant that the pleadings are complete and the case is ripe for hearing. He prayed that case may be listed along with other cases of similar nature which are listed on 18.03.2019 for hearing.</p> <p>List this case on 18.03.2019 for hearing.</p> <p>On the date fixed Ld. Counsel for the respondents shall produce the original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>AKD/UKT/-</p>

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

O.A. No. 326 of 2018

Balendra Prasad 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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri R. Chandra, Ld. Counsel for the applicant and Dr. Gyan Singh, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Ld. Counsel for the applicant prays for time to file Rejoinder Affidavit.</p> <p style="text-align: center;">List this case on 22.02.2019 for orders.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>AKD/UKT/-</p>

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

O.A. No. 388 of 2018

Ex. Sub. Ram Ujagir
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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Arguments heard. Order is reserved.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>AKD/UKT/-</p>

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

O.A. No. 414 of 2018

Devendra 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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Ms. Kavita Singh, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Arguments heard.</p> <p style="text-align: center;">Order is reserved.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>AKD/UKT/-</p>

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

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

Union of India & Others By Legal Practitioner for the Applicants	Applicants
Versus	
Rajendra Pratap Singh By Legal Practitioner for Respondent	Respondent

Notes of the Registry	Orders of the Tribunal		
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri Adesh Kumar Gupa and Shri D.C. Lohumi, Ld. Counsel for the review applicants and Shri R. Chandra, Advocate holding brief of Shri V.P. Pandey, Ld. Counsel for the respondent.</p> <p style="text-align: center;">Brief holder appearing on behalf of the Ld. Counsel for the respondent submits that Shri V.P. Pandey, Ld. Counsel for the review respondent is out of station today and prays for adjournment. Accordingly, the case is adjourned.</p> <p style="text-align: center;">List this case on 13.03.2019 for orders.</p> <table style="width: 100%; margin-top: 20px;"><tr><td style="width: 50%; text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</td><td style="width: 50%; text-align: center;">(Justice S.V.S. Rathore) Member (J)</td></tr></table> <p style="font-size: small; margin-top: 10px;">AKD/UKT/-</p>	(Air Marshal B.B.P. Sinha) Member (A)	(Justice S.V.S. Rathore) Member (J)
(Air Marshal B.B.P. Sinha) Member (A)	(Justice S.V.S. Rathore) Member (J)		

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

O.A. No. 203 of 2012

Smt. Sandhya Rai
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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p>Present: Shri Shailendra Kumar Singh, Ld. Counsel for the applicant, Shri Parijaat Belaura and Shri Arun Kumar Sahu, Ld. Counsel for the respondent Nos. 1 to 6 assisted by Major Atul Gupta, OIC Legal Cell and Shri Parijaat Belaura, Ld. Counsel for the respondent No. 7.</p> <p>During the course of arguments Ld. Counsel for the applicant has based his arguments on Para 333 of the Regulations for the Army, 1987 (Vol. I) which has been reproduced in the Order dated 25.11.2014 passed by Armed Forces Tribunal, Regional Bench, Chennai in Original Application No.168 of 2013 Smt. Gnyanasundari Versus The Record Officer and Others. But the original Para 333 of the Regulations for the Army, 1987 shows that there is some mistake in quoting the said provision in the Order dated 25.11.2014 passed by the AFT, Regional Bench, Chennai.</p> <p>Ld. Counsel for the applicant prays for time for better preparation in view of the provisions contained in para 333 of the Regulations for the Army, 1987.</p> <p>List this case on 05.03.2019 for hearing.</p> <p>On the date fixed Ld. Counsel for the respondents shall produce the original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>AKD/UKT/-</p>

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

O.A. No. 230 of 2017

Smt. Urmila Devi Chauhan
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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents.</p> <p style="text-align: center;">As prayed, last opportunity is being granted to the Ld. Counsel for the respondents to produce original record pertaining to this case particularly the merit list. In case of failure an adverse inference shall be drawn in favour of the applicant.</p> <p style="text-align: center;">List this case on 12.03.2019 for hearing.</p> <p style="text-align: center;">On the date fixed Ld. Counsel for the respondents shall produce the original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>AKD/UKT/-</p>

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

O.A. No. 307 of 2017

Smt. Maya Thapa
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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri Rohit Kumar, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents.</p> <p style="text-align: center;">In this case the Ld. Counsel for the applicant has filed certain documents containing F.I.R. and report of the Police thereon, which are in Nepali language.</p> <p style="text-align: center;">Ld. Counsel for the applicant is directed to get all the annexures translated and typed in English/Hindi language by the date fixed.</p> <p style="text-align: center;">List this case on 14.03.2019 for hearing.</p> <p style="text-align: center;">On the date fixed Ld. Counsel for the respondents shall produce the original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>AKD/UKT/-</p>

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

O.A. No. 514 of 2017

Ashish Kumar Maharia
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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri Rohit Kumar, Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Ld. Counsel for the applicant prays for adjournment. Accordingly, the case is adjourned.</p> <p style="text-align: center;">List this case on 19.03.2019 for hearing.</p> <p style="text-align: center;">On the date fixed Ld. Counsel for the respondents shall produce the original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>AKD/UKT/-</p>

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

M.A. No. 85 of 2019 Inre O.A. No. Nil of 2019

Ex Sgt Amritansh Pratap Singh Rathore
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others(Air Force)
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal BBP Sinha, Member (A)</u></p> <p>Memo of appearance filed by Shri Yogesh Kesarwani, Advocate on behalf of respondents is taken on record. His name be shown as learned counsel for the respondents when the case is listed next.</p> <p>Present: Ms. Nisha Pandey, learned counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents.</p> <p style="text-align: center;"><u>M.A. No. 85 of 2019</u></p> <p>This is an application for condonation of delay filed by the applicant for grant of disability pension. As per office report, it is delayed by 01 year, 07 months & 16 days in filing the Original Application.</p> <p>Reasons shown in the affidavit filed in support of the application for condonation of delay seem to be sufficient. Since pension is recurring cause of action, hence we allow the application for condonation of delay and delay in filing the original application is hereby condoned.</p> <p>Having heard learned counsel for the parties, we find that this is a fit case for adjudication.</p> <p style="text-align: center;">Admit.</p> <p>Let the case be registered as O.A.</p> <p>Learned counsel for the respondents is granted two weeks time to file counter affidavit. Rejoinder affidavit, if any, to be filed by learned counsel for the applicant within a week, thereafter.</p> <p>List this case on 20.02.2019 for orders.</p> <p>Learned counsel for the respondents is directed to positively file counter affidavit alongwith medical papers by the date fixed, for perusal of the Bench.</p> <p style="text-align: center;">(Air Marshal BBP Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>SB</p>

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

M.A. No. 106 of 2019 Inre O.A. No. Nil of 2019

Smt Pinki Devi By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others(Army) By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal BBP Sinha, Member (A)</u></p> <p>Memo of appearance filed by Shri Ashish Kumar Singh, Advocate on behalf of respondents is taken on record. His name be shown as learned counsel for the respondents when the case is listed next.</p> <p>Present: Shri R. Chandra, learned counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents.</p> <p><u>M.A. No. 106 of 2019</u></p> <p>This is an application for condonation of delay filed by the applicant by means of which she has prayed for entry of her name in service records of her father. As per office report, it is delayed by 40 years, 06 months & 05 days in filing the Original Application.</p> <p>Learned counsel for the respondents is granted a week's time to file objection on the application for condonation of delay. Replication, if any, may be filed by the learned counsel for the applicant within a week, thereafter.</p> <p>List this case on 25.03.2019 for orders before Registrar Court.</p> <p style="text-align: center;">(Air Marshal BBP Sinha) (Justice S.V.S. Rathore) 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

Ex-A No. 13 of 2019 Inre O.A. No. 285 of 2016

Smt Pushpa Pandey & Others
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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal BBP Sinha, Member (A)</u></p> <p>Memo of appearance filed by Shri Amit Jaiswal, Advocate on behalf of respondents is taken on record. His name be shown as learned counsel for the respondents when the case is listed next.</p> <p>Present: Shri Arun Kumar, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents.</p> <p><u>Ex.A. No. 13 of 2019</u></p> <p>This is an application filed by the applicant for execution of order dated 05.03.2018 passed in O.A. No. 285 of 2016.</p> <p>Learned counsel for the respondents prays for and is granted four weeks time to seek instructions from the authority concerned and to file compliance report.</p> <p>List this case on 15.03.2019 for filing compliance report by the respondents.</p> <p style="text-align: center;">(Air Marshal BBP Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>SB</p>

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

M.A. No. 91 of 2019 with M.A. No. 92 of 2019

Ex Hav Shiv Prasad Gupta 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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal BBP Sinha, Member (A)</u></p> <p>Memo of appearance filed by Dr. Shailendra Sharma Atal, Advocate on behalf of respondents is taken on record. His name be shown as learned counsel for the respondents when the case is listed next.</p> <p>Present: Shri D.S. Tiwari, learned counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents.</p> <p style="text-align: center;"><u>M.A. No 91 & 92 of 2019</u></p> <p>This is an application for condonation of delay in filing the recall application. As per office report, this application is delayed by 04 years, 07 months & 03 days in filing the recall application.</p> <p>Learned counsel for the respondents prays for and is granted four weeks time to file objection on application for condonation of delay in filing recall application.</p> <p>List this case on 12.03.2019 for orders.</p> <p style="text-align: center;">(Air Marshal BBP Sinha) (Justice S.V.S. Rathore) 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

R.A. No. 9 of 2019 with M.A. No. 107 of 2019 Inre O.A. No. 663 of 2017

Union of India & Others
By Legal Practitioner for the Applicant

Applicant-respondents

Versus

Hony Nb Sub Ramesh Prasad Pandey & Others
By Legal Practitioner for Respondents

Respondents-applicants

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal BBP Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri Bhanu Pratap Singh, learned counsel for the applicant-respondents.</p> <p style="text-align: center;"><u>R.A.No.9 of 2019 with M.A.No.107 of 2019</u></p> <ol style="list-style-type: none">1. The applicant-respondents have filed this Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008.2. By means of this Review Application, the applicant-respondents have prayed for review/recall of the judgment and order dated 09.01.2018 passed in O.A. No. 663 of 2017.3. The main ground taken by the Review Applicants is that the Tribunal has committed an error apparent on the face of record while passing the aforesaid judgment and order.4. Keeping in view the submission of the Review Applicants, we are of the view that the grounds pleaded have no substance so as to make any effect on the order under review. Apart from it, from perusal of record, it transpires that there is delay of 11 months and 15 days in filing the Review Application. An application for condonation of delay (M.A. No. 107 of 2019) has been moved by the applicants. We have gone through the delay condonation application and find that the grounds and reasons shown in the accompanying affidavit does not seem to be genuine and the application is liable to be rejected.5. The judgment and order dated 09.01.2018 sought to be reviewed was passed in proper perspective after considering all the facts and circumstances. No illegality or irregularity or error apparent on the face of record has been shown to us so as to review the aforesaid judgment of this Court.6. It is settled proposition of law that the scope of the review is limited and the applicant has to show that there is an error apparent on the face of

the record in view of Order 47 Rule 1 Sub Rule (1) of the Code of Civil Procedure.

7. In view of the principles of law laid down by the Hon'ble Supreme Court in the case of *Parsion Devi and Others vs. Sumitri Devi* and others reported in (1997) 8 Supreme Court Cases 715, it is settled that the scope of review jurisdiction is very limited and re-hearing is not permissible.

8. In similar matters, a bunch of cases have already been decided by this Tribunal.

9. After hearing learned counsel for the parties, we do not find any merit in Review Application.

10. Accordingly, the Review Application No. 9 of 2019 is **rejected**. The Review Applicants may be informed accordingly.

(Air Marshal BBP Sinha)
Member (A)

(Justice S.V.S. Rathore)
Member (J)

SB

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

Ex-A No. 39 of 2018 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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal BBP Sinha, Member (A)</u></p> <p>Present: Dr. Ashish Asthana, Advocate holding brief of Shri Lalit Kumar, learned counsel for the applicant and Shri, Bhanu Pratap Singh, learned counsel for the respondents.</p> <p><u>Ex.A. No. 39 of 2018</u></p> <p>This is an application filed by the applicant for execution of order dated 03.10.2017 passed in O.A. No. 146 of 2015.</p> <p>Learned counsel for the respondents submits that in this case PPO has been issued in pursuance to order under execution and a copy of the same has been provided to learned counsel holding brief in the Court itself who admits that order has been complied with.</p> <p>Since judgment and order under execution has been complied with, this Execution Application has rendered infructuous and is hereby dismissed.</p> <p style="text-align: center;">(Air Marshal BBP Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>SB</p>

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

Ex-A. No. 76 of 2018 Inre T.A. No. 81 of 2016

Sharawan Kumar Singh & Others
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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal BBP Sinha, Member (A)</u></p> <p style="text-align: center;">Present: None for the petitioner and Maj Atul Gupta, Departmental Representative for the respondents.</p> <p><u>Ex.A. No. 76 of 2018</u></p> <p style="text-align: center;">This is an application filed by the petitioner for execution of order dated 15.09.2017 passed in T.A. No. 81 of 2016.</p> <p style="text-align: center;">Further time is prayed on behalf of respondents to file compliance report.</p> <p style="text-align: center;">List this case on 08.03.2019 for filing compliance report by the respondents, failing which they will have to pay cost of Rs. 10,000/-.</p> <p style="text-align: center;">(Air Marshal BBP Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>SB</p>

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

Ex-A No. 80 of 2018 Inre R.A. No. 17 of 2011 Inre T.A. No. 288 of 2010

Chhote Lal
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>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal BBP Sinha, Member (A)</u></p> <p>Present: Shri R. Chandra, learned counsel for the petitioner and Shri R.C. Shukla, Ld. Counsel for the respondents.</p> <p><u>Ex.A. No. 80 of 2018</u></p> <p>This is an application filed by the petitioner for execution of order dated 31.07.2012 passed in R.A. No. 17 of 2011 Inre T.A. No. 288 of 2010.</p> <p>On the last date, following order was passed :-</p> <p style="text-align: center;"><i>"In this case, respondents were directed to seek clarification from the concerned department regarding the date from which the petitioner is to be paid disability pension. Since the order under execution is of the year 2012 but as prayed by the respondents, we hereby adjourn the case to file compliance report, failing which a cost of Rs. 15,000/- to be paid by the respondents in the Registry which shall be paid to the petitioner.</i></p> <p style="text-align: center;"><i>List this case on 25.01.2019 for filing compliance report."</i></p> <p>Today, compliance report has not been filed by the respondents. Cost of Rs. 15,000/- imposed by us has also not been deposited.</p> <p>Learned counsel for the respondents undertakes to deposit the cost within a week and prays six weeks time to file compliance report. Time prayed for is granted to file compliance report.</p> <p>List this case on 19.03.2019 for filing compliance report by the respondents, failing which they will have to deposit additional cost of Rs. 20,000/- in the Registry which shall be paid to the petitioner through cheque.</p> <p style="text-align: center;">(Air Marshal BBP Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>SB</p>

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

Ex A.No.206 of 2018
Inre O.A.No.12 of 2018

Dina Nath Singh
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri R Chandra, learned counsel for the applicant and Shri Adesh Kumar Gupta, learned counsel for the respondents.</p> <p><u>Ex.A.No.206 of 2018</u></p> <p style="text-align: center;">This is an application for execution of the order dated 16.03.2018 passed in O.A.No.12 of 2018.</p> <p style="text-align: center;">It is submitted by the learned counsel for the respondents that in pursuance of the order under execution, corrigendum PPO has been issued on 19.12.2018. The only part that remains to be executed is the payment of interest on the delayed payment, while no mention has been made in the corrigendum PPO regarding the payment of interest.</p> <p style="text-align: center;">Learned counsel for the respondents prays for and is granted four weeks' time to seek instruction and to file compliance report.</p> <p style="text-align: center;">List this case on 08.03.2019 for orders.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>PKG</p>

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

Ex A.No.207 of 2018
Inre O.A.No.6 of 2018

Shiw Prasad Tripathi
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri R Chandra, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents.</p> <p><u>Ex.A.No.207 of 2018</u></p> <p style="text-align: center;">This is an application for execution of the order dated 20.02.2018 passed in O.A.No.6 of 2018.</p> <p style="text-align: center;">Admittedly in this case the only part that remains to be executive is the payment of interest on the delayed payment.</p> <p style="text-align: center;">It is submitted on behalf of the respondents that requisite sanction shall be accorded within the stipulated period. However, there is delay in issuance of the PPO. It is submitted that to ensure the payment of interest, a corrigendum PPO shall be issued and for that purpose, he prays for and is granted four weeks' time to seek instruction and to file compliance report.</p> <p style="text-align: center;">List this case on 26.03.2019 for orders.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>PKG</p>

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

Ex A.No.208 of 2018
Inre O.A.No.5 of 2018

Pandey Shambhu Prasad Sharma
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri R Chandra, learned counsel for the applicant and Shri Anurag Mishra, learned counsel for the respondents.</p> <p><u>Ex.A.No.208 of 2018</u></p> <p style="text-align: center;">This is an application for execution of the order dated 17.01.2018 passed in O.A.No.5 of 2018.</p> <p style="text-align: center;">Admittedly in this case the only part that remains to be executed is the payment of interest on the delayed payment.</p> <p style="text-align: center;">It is submitted on behalf of the respondents that requisite Govt. sanction has been accorded within the stipulated period. However, there is delay in issuance of the PPO. It is submitted that to ensure the payment of interest, a corrigendum PPO shall be issued and for that purpose, he prays for and is granted four weeks' time to seek instruction and to file compliance report.</p> <p style="text-align: center;">List this case on 26.03.2019 for orders.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>PKG</p>

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

Ex A.No.216 of 2018
Inre O.A.No.189 of 2017

Smt Pushpa Devi
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri KK Misra, learned counsel for the applicant and Shri RC Shukla, learned counsel for the respondents.</p> <p><u>Ex.A.No.216 of 2018</u></p> <p style="text-align: center;">This is an application for execution of the order dated 25.05.2018 passed in O.A.No.189 of 2017.</p> <p style="text-align: center;">It is submitted on behalf of the respondents that requisite sanction has been accorded on 24th September 2018 and further time is prayed for issuance of PPO.</p> <p style="text-align: center;">List this case on 25.03.2019 for filing compliance report.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>PKG</p>

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

Ex A.No.231 of 2018
Inre O.A.No.18 of 2011

Ex Rect Satyavir Singh
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri Rohit Kumar, learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents.</p> <p><u>Ex.A.No.231 of 2018</u></p> <p style="text-align: center;">This is an application for execution of the order dated 20.04.2018 passed in O.A.No.18 of 2011.</p> <p style="text-align: center;">It is submitted on behalf of the respondents that requisite sanction has been accorded on 17th August 2018, but it is really very surprising that even after lapse of five months' time, requisite PPO has not yet been issued and further time is prayed for issuance of PPO.</p> <p style="text-align: center;">List this case on 14.03.2019 for filing compliance report.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>PKG</p>

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

M A.No.2334 of 2017
Inre O.A.No. Nil of 2017

Brijendra Singh
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri KK Misra, learned counsel for the applicant and Dr Shailendra Sharma Atal, learned counsel for the respondents.</p> <p style="text-align: center;"><u>ORDER (Oral)</u></p> <p><u>M.A.No.2334 of 2017</u></p> <p>1. This is an application for condonation of delay in moving the O.A. By the said O.A., the applicant has made the following prayers :</p> <p style="padding-left: 40px;"><i>“(I) to quash the discharge order of the applicant dt 08.03.2008 (as contained in Annexure A-1 to OA) and treat him in service till completion of his terms of engagement. (ii) To re-instate the applicant in service with all consequential benefits.”</i></p> <p>2. As per office report of the Registry, there is delay of 09 years, 03 months and 11 days in filing the O.A. In the application for condonation of delay, the ground taken by the applicant is that he has moved 4 to 5 representations starting from 17.03.2009 till 15.05.2016 for his reinstatement, but no action was taken on behalf of the respondent nor the discharge order has been communicated to him. Thereafter when he met his counsel, then he advised him to file this O.A.</p> <p>3. In reply to the said submission by the learned counsel for the applicant, learned counsel for the respondents has drawn our attention towards Para 4.9 of the O.A., which reads as under:</p> <p style="padding-left: 40px;"><i>“4.9. That later on expiry of about two years the applicant received his discharge papers through soldier Board Fatehgarh. On the basis of this certificate of the applicant he was informed by the staff of the Soldier Board that he has been discharged from the service under AR 13(3)iii (iv), which means that the applicant had requested for this discharge himself. It is pertinent to mention that the applicant neither ever requested for any discharge nor there is any record to that effect anywhere. This is absolutely incorrect averment. It may further be noted that whereas the rule position with regard to discharge mentioned in the certificate is item 13(3)iii (iv), it has been defined as</i></p>

irregular re employment. These are not in conformity at all and thereby not sustainable the eyes of law. A photocopy of the service documents have already attached as Annexure A-1 here before.”

4. Thus, it is clear that after about 02 years of the impugned order of discharge, the applicant was provided with the relevant papers through Soldier Board.

5. Learned counsel for the applicant has utterly failed to explain the delay after receiving the said discharge order during the course of his arguments, his only submission is that the applicant moved several representations. Simply sending representations, does not by itself, extend the period of limitation, which has to run from the date of discharge as the same is not a recurring cause of action.

6. Even if it is counted from the date when the discharge papers have been provided to the applicant through Soldier Board, even then there is delay of eight years in preferring this O.A. and for the said delay, there is absolutely no explanation furnished by the applicant.

7. Law is settled on the point that if there is inordinate delay and such delay is not satisfactorily explained, the Courts/Tribunals are loath to intervene and grant relief in exercise of its jurisdiction. The High Court (Tribunal in this case) in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. (See *M.P. vs. Nandlal Jaiswal & ors* reported in AIR 1987 SC 251).

8. The Hon'ble Apex Court in the case of *Balwant Singh (dead) vs. Jagdish Singh & ors*, reported in (2010) 8 SCC 685 has laid down certain guidelines with regard to condonation of delay. Relevant portion of the judgment reads thus:

“32. It must be kept in mind that whenever, a law is enacted by the legislature, it is intended to be enforced in its proper perspective. It is an equally settled principle of law that the provisions of a statute, including every word have to be given full effect, keeping the legislative intent in mind, in order to ensure that the projected object is achieved. In other words, no provision can be treated to have been enacted purposelessly.

33. Furthermore, it is also a well settled canon of interpretative jurisprudence that the Court should not give such an interpretation to the provisions which would render the provision ineffective or odious. Once the legislature has enacted the provisions of Order 22, with particular reference to Rule 9, and the provisions of the Limitation Act are applied to the entertainment of such an application, all these provisions have to be given their true and correct meaning and must be applied wherever called for. If we accept the contention of the Ld. Counsel appearing for the applicant that the Court should take a very liberal approach and interpret these provisions (Order 22 Rule 9 CPC and Section 5 of the Limitation Act) in such a manner and so liberally, irrespective of the period of delay, it would amount to practically rendering all these provisions redundant and inoperative. Such approach or interpretation would hardly be permissible in law.

34. Liberal construction of the expression “sufficient cause” is intended to advance substantial justice which itself presupposes no negligence or inaction on the part of the applicant, to whom want of bonafide is imputable. There can be instances where the court should condone the delay; equally there would be cases where the court must exercise its discretion against the applicant for want of any of these ingredients or where it does not reflect “sufficient cause” as understood in law. (Advanced Law Lexicon, P. Ramanatha Aiyer, 2nd Edn., 1997).

35. The expression “sufficient cause” implies the presence of legal and adequate reasons. The word “sufficient” means adequate enough, as much as may be necessary to answer the purpose intended. It embraces no more than that which provides a plentitude which, when done, suffices to accomplish the purpose intended in the light of existing circumstances and when viewed from the reasonable standard of practical and cautious men. The sufficient cause should be such as it would persuade the court, in exercise of its judicial discretion, to treat the delay as and excusable one. These provisions give the courts enough power and discretion to apply a law in a meaningful manner, while assuring that the purpose of enacting such a law does not stand frustrated.

36. We find it unnecessary to discuss the instances which would fall under either of these classes of cases. The party should show that besides acting bonafide, it had taken all possible steps within its power and control and had approached the court without any unnecessary delay. The test is whether or not a cause is sufficient to see whether it could have been avoided by the party by the exercise of due care and attention. (Advanced Law Lexicon, P. Ramanatha Aiyar, 3rd Edn., 2005).

9. In view of the observations made herein above, the application for condonation of delay deserves to be rejected, as the applicant has utterly failed to explain the huge delay of several years, hence rejected.

10. As a consequence to rejection of application for condonation of delay, the O.A. is also dismissed.

**(Air Marshal B.B.P. Sinha)
Member (A)**

PKG

**(Justice S.V.S. Rathore)
Member (J)**

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M A.No.1708 of 2018 with M.A.No.1709 of 2018

Inre T.A.No. 1061 of 2010

RN Mishra
By Legal Practitioner for Petitioner

Petitioner

Versus

Chief of Air Staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p>Present: Ms Nisha Pandey, learned counsel for the petitioner and Shri Ashish Agnihotri, learned counsel for the respondents.</p> <p><u>M A.No.1708 of 2018 with M.A.No.1709 of 2018</u></p> <p>Learned counsel for the respondents submits that he shall file objection on the application for condonation of delay in moving the recall application during the course of the day and a copy of the same has been provided to the learned counsel for the applicant, who prays for and is granted two weeks' time to file reply to the objection.</p> <p>List this case on 13.02.2019 for orders.</p> <p>(Air Marshal B.B.P. Sinha) Member (A) PKG</p> <p>(Justice S.V.S. Rathore) Member (J)</p>

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

M A.No.1803 of 2018
Inre O.A.No. Nil of 2018

Ex Hav (Hony Nb Sub) Umed Singh
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p>Present: Shri Parijat Belaura, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents.</p> <p><u>M.A.No.1803 of 2018</u></p> <p>By means of this O.A., the applicant has made prayer for grant of notional promotion in the rank of Naib Subedar and revised pension, which is a recurring cause of action.</p> <p>Objection and reply to the said objection have already been exchanged</p> <p>Accordingly, the application is allowed and the delay in filing the O.A. is hereby condoned.</p> <p>Having heard the learned counsel for the parties, we find that it is a fit case for admission.</p> <p>Admit.</p> <p>Let the case be registered as O.A.</p> <p>Learned counsel for the respondents prays for and is granted four weeks' time to file counter affidavit. Rejoinder affidavit, if any, may be filed within two weeks thereafter.</p> <p>List this case on 19.03.2019 for exchange of pleadings before the Registrar Court.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A) PKG</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1
O.A.No. 276 of 2017

Lt Col Kamal Singh (Retd) & Others
By Legal Practitioner for Applicants

Applicants

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p style="text-align: center;">Present: Shri Shailendra Kumar Singh, learned counsel for the applicants and Shri Amit Jaiswal, learned counsel for the respondents.</p> <p style="text-align: center;">Learned counsel for the applicants prays for time to move an application to delete the name of the applicant no.4 in the array of party instead of moving an application for substitution impleading his legal heirs.</p> <p style="text-align: center;">List this case on 08.03.2019 for orders.</p> <p style="text-align: center;">(Air Marshal B.B.P. Sinha) Member (A)</p> <p style="text-align: center;">(Justice S.V.S. Rathore) Member (J)</p> <p>PKG</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
O.A.No. 227 of 2017
Court No. 1

Smt Preeti
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>25.01.2019</u> <u>Hon'ble Mr. Justice S.V.S. Rathore, Member (J)</u> <u>Hon'ble Air Marshal B.B.P. Sinha, Member (A)</u></p> <p>Present: Shri R Chandra, learned counsel for the applicant and Shri Ashish Saxena, learned counsel for the respondents.</p> <p style="text-align: center;"><u>ORDER (Oral)</u></p> <p>1. By means of this O.A., the applicant has made the following prayers :</p> <p><i>“(i) The Hon'ble Tribunal may be pleased to set aside the order dated 08.02.2017 (Annexure No.A-1) and Order dated 16.02.2007 (Annexure No.A-2),</i></p> <p><i>(ii) The Hon'ble Tribunal may be pleased to direct the respondents to grant maintenance allowance to the applicant,</i></p> <p><i>(iii) Any other appropriate order or direction which the Hon'ble Tribunal may deem just and proper in the nature and circumstances of the case.”</i></p> <p>2. Thus, the applicant made prayer for grant of maintenance by the Army authorities. Learned counsel for the applicant has argued that Part-II Order could not be published as the name of the applicant is not entered as wife of Ankit Kumar Punia for want of marriage certificate. A perusal of the record shows that for the said purpose, the applicant was asked to furnish the marriage certificate, but the same could not be furnished by him, hence Part-II Order could not be published. The marriage certificate is the conclusive evidence of the marriage and in absence of the same, the Part-II Order could not be published.</p> <p>3. Learned counsel for the respondents has argued that the Co-ordinate Bench of Chandigarh has held that the Army authorities have no right to grant maintenance, therefore, how this O.A. is maintainable after the pronouncement which is binding on this Court.</p> <p>4. We have given an opportunity to the learned counsel for the applicant to wait for the out-come of any review or appeal, if any, preferred against the said order, but the learned counsel for</p>

the respondents insisted that this O.A. may be disposed of in accordance with the said ruling.

5. Hon'ble Co-ordinate Bench of Armed Forces Tribunal, Chandigarh in the case of Major Amit Kumar Mishra vs. Union of India (O.A.No.1229 of 2017) decided on 31st July 2018 after a long discussion of all the relevant provisions, has concluded as under :

“33. With respect, we wish to differ with the observations made in the cited judgments as regards jurisdiction of the Army Authorities to adjudicate claims for maintenance and hold that the Army Authorities have no jurisdiction to adjudicate such claims and Sections 90(i) and 91(i) of the Act only empower the prescribed officers to pass an order directing deductions from the pay and allowances of a person subject to the Act, only to give effect to a decree passed by a Court of competent jurisdiction granting maintenance in favour of the wife and or child of such person, not otherwise.

40. In view of what has been said and discussed here-in-above, the impugned order dated 08 February 2016, Annexure A7, in so far it relates to respondent No. 5, is held to be without jurisdiction, illegal and unsustainable and, as such, is hereby quashed. Natural consequences shall follow. We may clarify that we have deliberately not discussed the merits of the case because such discussion would have prejudiced either of the parties if respondent No. 5 should decide to have recourse to a court of competent jurisdiction to claim maintenance.”

6. In that case, order of maintenance was passed by the respondent no.3 in favour of respondent no.5 and after a long discussion, the said order of maintenance has been held to be illegal, without jurisdiction and unsustainable and the same was quashed.

7. In view of this specific decision on the point and on the request of the learned counsel for the applicant to dispose of this case and in view of the pronouncement of the Hon'ble Co-ordinate Bench of Armed Forces Tribunal, Chandigarh in the case of Amit Kumar Mishra (supra), this O.A. loses all its substance, becomes unsustainable and is accordingly dismissed.

(Air Marshal B.B.P. Sinha)
Member (A)

PKG

(Justice S.V.S. Rathore)
Member (J)