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

T.A. No. 775 of 2010

R.N. Pandey Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Vijay Kumar Pandey, Ld. Counsel appearing for the applicant and Shri D.K. Pandey, Ld. Counsel appearing for the respondents. In summary trial held against applicant Hav. R.N. Pandey he was reduced to rank of Naik under Section 80 of the Army Act, 1950 vide order dated 14.09.1992. Against the said order applicant had preferred a Writ Petition in the Hon'ble Allahabad High Court being Civil Misc. Writ Petition No. 5566 of 1993 which was transferred to this Tribunal under Section 34 of the Armed Forces Tribunal Act, 2007 'service matter' under jurisdiction of the Armed Forces Tribunal Act, 2007. In view of Section 3(o)(iii) of the Armed Forces Tribunal Act, 2007 only 'service matter' concerning to dismissal of service in summary disposal and trials is cognizable by the Armed Forces Tribunal and not all 'service matters'. Admittedly, the subject matter in present application is not a case of dismissal from service but of reduction in rank awarded in summary trial which is not cognizable by the Armed Forces Tribunal. Jurisdiction concerning such disputes lies in the High Court under Article 226 of the Constitution of India. The case is, therefore, transferred to the High Court of Judicature at Allahabad. Let records of this case be transmitted to the High Court of Judicature at Allahabad. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 46 of 2022

WO Bal Bachan Prasad (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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Chaturbhuj Dwivedi and Shri P.K. Khare, Ld. Counsel for the applicant and Ms. Appoli Srivastava, Ld. Counsel for the respondents. Original Application is **allowed**. For order, see our Judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 576 of 2022 with M.A. No. 686 of 2022

Ex. Sgt. Rakesh Kumar 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Shri Sunil Sharma, Advocate on behalf of the respondents is taken on record. His name be shown as Counsel for the respondents when the case is listed next. Heard Shri Shiv Kant Pandey, Shri Amit Pandey and Ms. Nisha Pandey, Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondents. The Original Application has been filed with delay of 04 years and 26 days. Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application. Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation of delay. Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned. Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly. **O.A. No. 576 of 2022** Matter needs adjudication. Admit. Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **16.09.2022** for exchange of pleadings. List the matter before Tribunal on **01.11.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 577 of 2022

Ex. WO Jai Shankar Panda 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Shri Amit Jaiswal, Advocate on behalf of the respondents is taken on record. His name be shown as Counsel for the respondents when the case is listed next. Heard Shri Shiv Kant Pandey, Shri Amit Pandey and Ms. Nisha Pandey, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents. Matter needs adjudication. Admit. Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **16.09.2022** for exchange of pleadings. List the matter before Tribunal on **01.11.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. 578 of 2022

Hav. Virender 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Dr. Shailendra Sharma Atal, Advocate on behalf of the respondents is taken on record. His name be shown as Counsel for the respondents when the case is listed next. Heard Shri Manoj Kumar Awasthi, Advocate holding brief of Wg. Cdr. Ajit Kakkar (Retd.), Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents. This Original Application has been filed against the orders dated 25.10.2019, 01.10.2020, 19.05.2021 and 18.04.2022 of respondents by which applicant has been discharged from service. Case needs adjudication. Admit. Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **16.09.2022** for exchange of pleadings. List the matter before Tribunal on **01.11.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 579 of 2022

Ex. Sgt. Dhananjaya Kumar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Shri Kaushik Chatterjee, Advocate on behalf of the respondents is taken on record. His name be shown as Counsel for the respondents when the case is listed next. Heard Shri Shiv Kant Pandey, Shri Amit Pandey and Ms. Nisha Pandey, Ld. Counsel for the applicant and Shri Kaushik Chatterjee, Ld. Counsel for the respondents. Matter needs adjudication. Admit. Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **16.09.2022** for exchange of pleadings. List the matter before Tribunal on **01.11.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 580 of 2022 with M.A. No. 689 of 2022

Ex. Sub. Ram Kumar Maurya 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Ms. Prerna Singh, Advocate on behalf of the respondents is taken on record. Her name be shown as Counsel for the respondents when the case is listed next. Heard Col. A.K. Srivastava (Retd.) and Shri Amarendu Srivastava, Ld. Counsel for the applicant and Ms. Prerna Singh, Ld. Counsel for the respondents. There is a delay of 01month and 13 days in filing of Original Application. Ld. Counsel for the applicant submits that delay in filing of Original Application is not intentional, but for the reasons stated in affidavit filed in support of application. The Ld. Counsel for the respondents has vehemently opposed the prayer on the ground that delay has not been properly and satisfactorily explained. Considering the facts averred in affidavit we find that cause shown is sufficient. Accordingly, delay is condoned. Delay condonation application stands disposed off. **O.A. No. 580 of 2022** Matter needs adjudication. Admit. Issue notice to the respondents. Ms. Prerna Singh, Advocate has accepted notice on behalf of the respondents, therefore, service of notice is waived. She submits that Annexures which have been filed along with Original Application are not legible . Applicant is directed to furnish legible copies of Annexures filed along with Original Application to the Ld. Counsel for the respondents within three days. Thereafter, respondents will have four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **16.09.2022** for exchange of pleadings. List the matter before Tribunal on **01.11.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 581 of 2022

Lt. Col. Ambar Mittal (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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Shri Devesh Kumar, Advocate on behalf of the respondents is taken on record. His name be shown as Counsel for the respondents when the case is listed next. Heard Shri J.L. Joel, Ld. Counsel for the applicant and Shri Devesh Kumar, Ld. Counsel for the respondents. Matter needs adjudication. Admit. Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **16.09.2022** for exchange of pleadings. List the matter before Tribunal on **01.11.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 582 of 2022

Lt. Col. Sharma Vipin Jaishree Radheyshyam (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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Shri G.S. Sikarwar, Advocate on behalf of the respondents is taken on record. His name be shown as Counsel for the respondents when the case is listed next. Heard Shri J.L. Joel, Ld. Counsel for the applicant and Shri G.S. Sikarwar, Ld. Counsel for the respondents. Matter needs adjudication. Admit. Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **16.09.2022** for exchange of pleadings. List the matter before Tribunal on **01.11.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 583 of 2022

Ex. CHM Lalit Kumar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Shri Kaushik Chatterjee, Advocate on behalf of the respondents is taken on record. His name be shown as Counsel for the respondents when the case is listed next. Heard Shri Ashok Singh, Ld. Counsel for the applicant and Shri Kaushik Chatterjee, Ld. Counsel for the respondents. This Original Application has been filed for the grant of disability pension. Case needs adjudication. Admit. Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **16.09.2022** for exchange of pleadings. List the matter before Tribunal on **01.11.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 584 of 2022 with M.A. No. 692 of 2022

Nk. (DVR/MT) Kamlesh Kumar Mishra Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Dr. Shailendra Sharma Atal, Advocate on behalf of the respondents is taken on record. Heard Shri Shri Vikas Singh Chauhan, Ld. Counsel appearing for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel appearing for the respondents. In view of order dated 10.01.2022 of the Hon'ble Apex Court in Miscellaneous Application No. 21/2022 in MA 665/2021 in Suo Motu Writ Petition (C) No.3/2020, there is no delay in filing of Original Application, however, an application for condonation of delay has been moved which being not required is dismissed. This Original Application has been filed seeking compliance of an order for restitution of conjugal right passed by the Family Court, Ballia. Ld. Counsel for the applicant submits that Original Application has been filed against notice dated 15.06.2021 issued by the respondent No. 4 by which applicant has been directed to show the cause in regard to application made by his wife for maintenance allowance. During the course of hearing, Ld. Counsel for the applicant submitted that applicant does not want to press the Original Application which may be dismissed as withdrawn. Accordingly, Original Application is **dismissed** being withdrawn. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 585 of 2022 with M.A. No. 693 of 2022

Capt. (IN) Kamlesh Kumar Varma (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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Shri Amit Jaiswal , Advocate on behalf of the respondents is taken on record. His name be shown as Counsel for the respondents when the case is listed next. Heard Shri Abhishek R. Shukla, Dr. Ashish Asthana and Shri Dharam Raj Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents. There is a delay of 08 years and 27 days in filing of Original Application. As requested by the Ld. Counsel for the applicant, list this matter on **08.08.2022** for hearing on admission. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 170 of 2022 Inre : O.A. No. 64 of 2019

Ex. Sgt. Om Prakash Ojha 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri D.S. Tiwari, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present. On the request of Ld. Counsel for the respondents, three weeks further time is granted to seek instruction and to file affidavit of compliance. List on **15.09.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 230 of 2022 Inre : O.A. No. 93 of 2021

Ex. Nk. Birija Bhar Ram Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Ms. Deepti Prasad Bajpai, Advocate on behalf of the respondents is taken on record. Her name be shown as Counsel for the respondents when the case is listed next. On the case being taken up for hearing Shri Prashant Kumar Singh, Ld. Counsel for the applicant and Ms. Deepti Prasad Bajpai, Ld. Counsel for the respondents are present. This application has been filed for implementation of order dated 11.10.2021 of this Tribunal in Original Application No. 93 of 2021. Ld. Counsel for the respondents prays for and is granted four weeks time to seek instruction and to file affidavit of compliance. List on **06.10.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 233 of 2022 Inre : O.A. No. 263 of 2014

Ex. Hav. Ishwar Prasad Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Ms. Deepti Prasad Bajpai, Advocate on behalf of the respondent Nos. 1 to 3 is taken on record. Her name be shown as Counsel for the respondent Nos. 1 to 3 when the case is listed next. On the case being taken up for hearing Shri Yashpal Singh, Ld. Counsel for the applicant and Ms. Deepti Prasad Bajpai, Ld. Counsel for the respondent Nos. 1 to 3 are present. This application has been filed for implementation of order dated 04.02.2022 of this Tribunal in Original Application No. 233 of 2022. Ld. Counsel for the respondent Nos. 1 to 3 prays for and is granted four weeks time to seek instruction and to file affidavit of compliance. Mohd. Zafar Khan, Advocate appears on behalf of respondent No. 4 and he seeks and is allowed four weeks time to seek instruction and to file affidavit of compliance. List on **06.10.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

M.A. No. 687 of 2022 with M.A. No. 688 of 2022 Inre : O.A. No. 791 of 2021

Rect. Gaurav 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Shri Rajiv Pandey, Advocate on behalf of the respondents is taken on record. Heard Shri R. Chandra, Advocate holding brief of Shri K.K. Singh Bisht, Ld. Counsel for the applicant and Shri Rajiv Pandey, Ld. Counsel for the respondents. For the facts averred in affidavit filed in support of delay condoantion application, delay of 20 days in filing of Leave to Appeal is condoned. Delay condonation application stands disposed off. This is an application for leave to appeal under Section 30 read with Section 31 of the Armed Forces Tribunal Act, 2007. After perusing the orders impugned, we find that no much or less point of law of general public importance involved for grant leave to appeal. Accordingly, Leave to Appeal is **dismissed**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

M.A. No. 690 of 2022 with M.A. No. 691 of 2022 Inre : O.A. No. 402 of 2018

Union of India & Others Applicants
By Legal Practitioner for the Applicants

Versus

Ex. Sub. Prasanth M. Kurup Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Yogesh Kesarwani, Ld. Counsel for the applicants – Union of India & Others. For the facts averred in affidavit filed in support of delay condoantion application, delay of 03 months and 11 days in filing of Leave to Appeal is condoned. Delay condonation application stands disposed off. This is an application for leave to appeal under Section 30 read with Section 31 of the Armed Forces Tribunal Act, 2007. After perusing the orders impugned, we find that no much or less point of law of general public importance involved for grant leave to appeal. Accordingly, Leave to Appeal is **dismissed**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

T.A. No. 21 of 2022

Ex. JWO Om Prakash 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Memo of Appearance filed by Shri Ashish Kumar Singh, Advocate on behalf of the respondents is taken on record. Heard Shri Vinay Pandey, Advocate holding brief of Shri Devendra Kumar, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents. Original Application is **allowed**. For order, see our Judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Diary No. 1119 of 2022

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

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, Advocate informs that Shri S.P. Sherawat, Advocate informed him today in the morning that he will appear in this case on behalf of respondent Nos. 5 and 6 and file affidavit of compliance. In view of the above, let affidavit of compliance by respondent Nos. 5 and 6 be filed within four weeks, as prayed. List on **07.10.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 55 of 2018 Inre : O.A. No. 316 of 2016

Jitender Ram Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents assisted by Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj. Shri Amit Jaiswal, Ld. Counsel appearing on behalf of the respondents submits that PPO has been generated on 06.06.2022. He further submits that affidavit of compliance is under preparation and will be filed in the registry within two days. List on **10.08.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 166 of 2018 Inre : O.A. No. 662 of 2017

Ex. Hav. (Hony. Nb. Sub.) Vijay Bahadur Rai Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri B.B. Tripathi, Ld. Counsel for the applicant and Shri R.C. Shukla, Ld. Counsel for the respondents are present. Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj, who is present in the Tribunal submitted that Corrigendum PPO is likely to be issued soon. Affidavit of compliance be filed within two weeks. List on **15.09.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
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Ex. A. No. 192 of 2018 with M.A. No. 509 of 2022 & M.A. No. 510 of 2022
Inre : T.A. No. 388 of 2010

Brijesh Kumar Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** **M.A. No. 510 of 2022 and M.A. No. 509 of 2022** Heard Shri Asheesh Agnihotri, Ld. Counsel for the respondents. For the reasons stated in affidavit filed in support of application, correction application is allowed. In the order 04.01.2018 of this Tribunal in Transferred Application No.388 of 2010 the name of applicant be corrected as "**Brajesh Kumar Singh'** in place of 'Brijesh Kumar Singh' **Ex. A. No. 192 of 2018** Respondents to issue Corrigendum PPO and to file affidavit of compliance within three weeks positively. List on **15.09.2022.** Copy of this order be provided to the Ld. Counsel for the respondents/ AFT Legal Cell within two days for compliance. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 26 of 2020 Inre : O.A. No. 19 of 2019

Ex. Sep. Munna 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Asheesh Agnihotri, Ld. Counsel appearing for the respondents submits that in regard to disability suffered by the applicant Re-Assessment Medical Board was held wherein disability of the applicant has been found static i.e. 30% for the period from 31.05.1997 to 11.10.2021. Thus he submits that in view of the above, four weeks further time be granted to file affidavit of compliance, which is allowed. Order must be complied within four weeks failing which respondents shall be liable to pay Rs.5,000/- as additional cost to the by the next date fixed. List on **06.10.2022**. Copy of this order be provided to the Ld. Counsel for the respondents/ AFT Legal Cell within two days for compliance. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 8 of 2021 Inre : O.A. No. 282 of 2016

Varun Kumar Pandey Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Col. A.K. Srivastava (Retd.), Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Dr. Shailendra Sharma Atal, Ld. Counsel appearing on behalf of respondents submits that in compliance of the order conditional Government Sanction has been accorded on 05.07.2022 and claim has been sent to PCDA (Pension), Prayagraj for generation of PPO. Shri Rajeev Tiwari, Accounts Officer, PCDA (Pension), Prayagraj, who is present in the Tribunal, submits that no such claim has been received. Record is, therefore, directed to process the case of the applicant to the PCDA (Pension), Prayagraj at the earliest so that PPO may be generated. Respondents to file affidavit of compliance by the next date fixed failing which they shall be liable to pay Rs.10,000/- as cost to the applicant. List on **17.10.2022**. Copy of this order be provided to the Ld. Counsel for the respondents/ AFT Legal Cell within two days for compliance. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
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Ex. A. No. 22 of 2022 Inre : O.A. No. 47 of 2020

Ex. Hav. Mahendra Ram Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Shri Anurag Mishra, Ld. Counsel for the respondents are present. Shri Anurag Mishra, Ld. Counsel appearing on behalf of the respondents submits that in compliance of the order Government Sanction has been accorded on 08.07.2022. Affidavit of compliance be filed within four weeks. List on **07.10.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 80 of 2022 Inre : O.A. No. 411 of 2021

Sub. Ginesh Kuchukuttan Kurup 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present. Shri Yogesh Kesarwani, Ld. Counsel appearing on behalf of respondents submits that in compliance of the order applicant was considered for promotion to rank of Subedar Major and being not found in merit the same has been rejected. He further submits that respondents will file affidavit of compliance within a week. List on **15.09.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
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Ex. A. No. 83 of 2022 Inre : O.A. No. 495 of 2017

Ex. Hav. Ram Naresh 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Affidavit of compliance filed by the respondents is taken on record. Heard Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents assisted by Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj. Ld. Counsel for the applicant submits that applicant has two pension accounts in State Bank of India, Pratapgarh. One in regard to services rendered in Army and the other in regard to DGQA. The pension account number which is mentioned in the PPO is not concerned to Army pension account. It is in regard to DGQA pension account. Applicant had already informed the Army authorities regarding his Army pension account, however, they have not mentioned the same in the PPO, which needs correction. He further submits that applicant has been allowed disability pension from the date of Re-Survey Medical Board (RSMB) and not from the date when the disability discontinued whereas in the RSMB his disability has been found the same with same degree of percentage. He submits that, in view of the above, applicant needs time to file objection, which is allowed. Let objection be filed within two weeks. List on **15.09.2022**. In the meantime, respondents are directed to correct the account number in the PPO by issuing Corrigendum PPO. Copy of this order be provided to the Ld. Counsel for the respondents/ AFT Legal Cell within two days for compliance. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 110 of 2022 Inre : O.A. No. 94 of 2021

Ex. Hav. Amrit Nath Pal 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri R.Chandra, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents assisted by Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj. Ld. Counsel for the respondents submits that in compliance of the order PPO has been issued with its copy to the applicant. Ld. Counsel for the applicant admits receipt of its copy and submits that it is in terms of order. In view of the above, Execution Application is **dismissed** being infructuous. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 113 of 2022 Inre : O.A. No. 294 of 2021

Ex. Nk. Ram Suresh Yadav Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Mohd. Zafar Khan, Ld. Counsel for the applicant and Shri Somesh Singh, Ld. Counsel for the respondents are present. Ld. Counsel for the respondents submits that four weeks further time be granted to file affidavit of compliance as Leave to Appeal has been dismissed on 11.05.2022. The order to be executed is dated 01.10.2021. Respondents are directed to execute the order and file affidavit of compliance within four weeks failing which they shall be liable to pay Rs.10,000/- as cost to the applicant. List on **15.09.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
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Ex. A. No. 115 of 2022 Inre : O.A. No. 386 of 2020

Smt. Rekha Mishra W/o Late Ex. Nk. Prem Prakash Mishra & Others Applicants
By Legal Practitioner for the Applicants

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Manoj Kumar Awasthi, Advocate holding brief of Shri Pankaj Kumar Shukla, Ld. Counsel for the applicants and Shri Amit Jaiswal, Ld. Counsel for the respondents are present. It is submitted by the Ld. Counsel for the respondents that in compliance of the order Government Sanction has been accorded on 18.05.2022. Affidavit of compliance be filed within four weeks. List on **12.09.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 116 of 2022 Inre : O.A. No. 390 of 2018

Sub. Maj. Mangala Prasad Singh Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Affidavit of compliance filed by the respondents is taken on record. Shri R.C. Shukla, Ld. Counsel appearing for the respondents submits that order has been fully complied with. A sum of Rs.12,09,382/- has been credited in applicant's account in compliance of the order. Thus, his submission is that Execution Application be dismissed being infructuous. He also produced a copy of letter dated 19.07.2022 issued by Defence Accounts Department. We have gone through this letter and we find that order has been complied with. Accordingly, Execution Application is **dismissed** being infructuous. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
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Ex. A. No. 132 of 2022 Inre : O.A. No. 234 of 2020

Ex. Sgt. Pradyumn Pathak 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Manoj Kumar Awasthi, Advocate holding brief of Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Vishwesh Kumar, Ld. Counsel for the respondents are present. Shri Vishwesh Kumar, Ld. Counsel appearing on behalf of respondents submits that PPO has been generated and affidavit of compliance will be filed within three. List on **10.08.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

Form No. 4
{See rule 11(1)}
ORDER SHEET
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Ex. A. No. 141 of 2022 Inre O.A. No. 544 of 2021

Ex. Sep/Chef(C) Lokesh Malik 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicant and Shri Kaushik Chaterjee, Ld. Counsel for the respondents are present. Learned counsel for the respondents submits that in compliance of order dated 21.09.2021 statutory complaint dated 30.11.2020 was considered by GOC-in-C Eastern Command and the same has been dismissed on 11.06.2022, but the said order has not been brought on record. Learned counsel for the respondents shall file decision taken by the GOC-in-C Eastern Command within a week. List on **12.08.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

Ex.A. No. 142 of 2022 Inre O.A. No.364 of 2021

Ex. MWO Hari Narayan Shukla 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Sudhir Kumar Singh, Ld. Counsel for the applicant and Shri Arvind Kumar Pandey, Ld. Counsel for the respondents are present. Learned counsel for the respondents submits that the case was processed for implementation of order dated 17.01.2022, however due to policy constraints the authorities concerned have advised to file Review Application. Thus, he submits that time be granted to file Review Application. This prayer of learned counsel for the respondents cannot be acceded as time for filing Review Application is only one month. Respondents are directed to implement the order of this Tribunal and file compliance report within four weeks, else the officer responsible for implementation of the order shall remain present in the Tribunal on the next date and explain as to why coercive action should not be taken against the officer for non compliance of the order. Let copy of this order be supplied to learned counsel for the respondents. List on **13.09.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

Form No. 4
{See rule 11(1)}
ORDER SHEET
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Ex.A. No. 147 of 2022 Inre O.A. No. 60 of 2016

Lt. Col. Mukesh Baboo through Gulnaz Hussain 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Satendra Kumar Singh, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents are present. Learned counsel for the respondents submits that in compliance of the order dated 08.02.2021 of this Tribunal passed in O.A. No. 60 of 2016, General Court Martial was held in respect of disciplinary proceedings against the applicant which concluded on 22.01.2022. In the said proceedings applicant has been dismissed from service. He further submits that he wants to bring this fact on record by way of an affidavit for which time be granted. Let affidavit be filed detailing therein the compliance made by the respondents as passed by this Tribunal vide order dated 08.02.2021 within four weeks from today. List on **09.09.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

Ex.A. No. 148 of 2022 Inre O.A. No. 446 of 2020

Ex. Nk Mithilesh 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present. Learned counsel appearing for the respondents states that four weeks further time be granted to file affidavit of compliance. The order to be complied with is of 22.07.2021. Order must be complied with within four weeks failing which respondents shall pay cost of Rs 10,000/- payable to applicant. List on **01.09.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 721 of 2021

Ex. Hav. (Hony Nb Sub) Amar Nath Chaubey 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents are present. Learned counsel for the respondents submits that in compliance of order amount has been credited in applicant's pension account and monthly disability pension is also being paid regularly. Learned counsel for the applicant confirms the same. Therefore, order seems to be complied with. We find that applicant's grievance has been redressed, therefore O.A. deserves to be dismissed. Accordingly, O.A. is **dismissed**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 187 of 2022

Hav/Clk Shyam Sunder 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** 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:- (a) To direct the respondents to quash/set aside the impugned order dated 29.11.2021. (b) To consider the applicant for grant of discharge on medical grounds in view of his circumstances. (c) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper. 2. Brief facts of the case giving rise to this application are that applicant was enrolled in the Indian Army on 03.09.2005. While posted at Devlali he was placed in permanent low medical category P2 (permt) for 'Simple Obesity' w.e.f. 22.09.2021. Being placed in low medical category a Show Cause Notice dated 12.11.2021 was issued to him and he submitted reply on 12.11.2021 mentioning therein his unwillingness for continuation in service. Consequently, Officer Commanding of his unit furnished non-recommendation of the applicant's retention in service and his case was processed to respondent No 3 vide letter dated 16.11.2021 which was turned down vide letter dated 29.11.2021 on the ground of deficiency of clerical cadre. Being aggrieved, the applicant has filed the present Original Application for grant of premature retirement. 3. Learned counsel for the applicant submitted that applicant was enrolled in the Indian Army on 03.09.2005. The applicant was medically examined on 22.09.2021 and was diagnosed as a case of 'Simple Obesity' due to which he

was placed in permanent low medical category (LMC) S1H1A1P2(permt)E1. The said infirmity has impacted the applicant both physically and mentally. Nevertheless, the applicant continued rendering his service with his best efforts and performed each and every task assigned to him with due diligence. The applicant's parents are also dependent on him and are facing age related diseases and also he has to look after his cultivated land. The parents are unable to sustain their livelihood as they are dependent solely on farming and are unable to pursue the same owing to their old age and ailments. Therefore, applicant submitted an application dated 18.08.2020 (Annexure A-4) but its where about was not known. On being placed in low medical category a Show Cause Notice dated 12.11.2021 was issued to applicant to which he replied on 21.11.2021 and requested that he be discharged from service. He further submitted that after receipt of reply to Show Cause Notice the competent authority issued speaking order dated 12.11.2021 but his case for premature discharge was turned down vide letter dated 29.11.2021 on the ground of deficiency in clerk cadre which is not justifiable as Para 20 (a) (iv) of Army Order 3/2001 and DGMS (Army) letter dated 06.07.2017 provides that an individual placed in permanent low medical category for obesity shall be discharged from service under Army Rule 13.

4. Learned counsel for the applicant has placed reliance on order dated 01.05.2013 passed by AFT, RB Kolkata in T.A. No. 29 of 2012, ***Havildar Ashok Kumar Joshi vs Union of India & Ors***, order dated 22.03.1999 passed by Hon'ble Delhi High Court in ***KS Bhimwal Mohs (Lt Col) vs Union of India & Anr***, 79 (1999) DLT 297, order dated 01.11.2018 passed by the Hon'ble Apex Court in Civil Appeal No 7822 of 2011, ***Sanjay Jain vs Union of India & Ors***, The Hon'ble Supreme Court in ***Central Inland Water Transport Corpn v Brojo Nath Ganguly***, (1986) 3 SCC 156 and Hon'ble Delhi High Court in ***Major Rahul Shukla vs Union of India & Ors***, (1995) 34 DRJ 399 (DB). He pleaded that keeping in view of observations made in aforesaid pronouncements, applicant be granted discharge on medical grounds.

5. Heard Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents.

6. The applicant was enrolled in the Army on 03.09.2005. During the course of his service he was placed in medical category S1H1A1P2(P)E1 for disability 'Simple Obesity' and S1H1A1P3(T-24)E1 for disability 'Dyslipidemia' w.e.f. 22.09.2021. A Show Cause Notice dated 12.11.2021 was served on him to show cause as to why he should not be discharged from service being placed in low medical category. For convenience sake, Show Cause Notice dated 12.11.2021 is reproduced as under:-

> *"1. Ref Med Bd Proceedings AFMSF-15 (Ver-2006) dt 30 Sep 2021.*
> *2. You have been placed in permt low med cat S1H1A1P2(P)E1 wef 22 Sep 2021 for 'Simple Obesity' and cannot be suitably employed in*

present trade or alternative employment and your retention is not recommended. You are hereby asked to show cause in writing, as why your service should not be terminated.
3. Your reply should reach to this office by 15 Nov 2021".

7. In response to Show Cause Notice the applicant submitted his reply dated 12.11.2021 requesting the authorities to discharge him on medical ground as he was unwilling to continue in service. For convenience sake his reply dated 12.11.2021 is reproduced as under:-

"1. Please refer your letter No 02232/A/XX/AA dt 12 Nov 2021.
2. I, No 15789583Y Hav (Clk SD) Shyam Sundar of CATS would like to state that I have been placed in low med cat S1H1A1P2(P)E1 for the diag 'simple obesity' and S1H1A1P3(T-24)E1 wef 22 Sep 2021. I am unwilling to continue service either in my present trade work or in sheltered appointment in my permt low med cat.
3. In view of the above, I request to permit to disch on med grnd".

8. Consequent to receipt of reply from the applicant a speaking order dated 12.11.2021 was issued by the Officer Commanding Troops which for convenience sake is reproduced as under:-

"1. Ref your reply to the Show Cause Notice letter 15789583Y/Pers/01 dt 12 Nov 2021.
2. I as a competent authority have carefully examined the reply submitted by you vide letter at para 1 above. You have been placed in permt low med cat S1H1A1P2(P)E1 for the diag 'simple obesity' wef 22 Sep 2021 vide med bd proceedings AFMSF-15 (Ver-2006) dt 30 Sep 2021.
3. Your retention is not recommended as unwillingness certificate has also been provided by you.
4. In view of the above, you are being discharged from service on med grnd being unwilling to continue service in permt low med cat".

9. Accordingly, case for discharge of applicant was taken up with Army Avn Corps Records vide letter dated 16.11.2021 but Record Office vide letter dated 29.11.2021 advised to keep the applicant in sheltered appointment due to deficiency of clerical cadre in the Regiment on account of no recruitment during Covid-19 pandemic. Though the applicant was unwilling to continue in service, yet keeping in view the scenario at that time his retention in service was considered due to following reasons:-

(i) Due to ongoing Covid-19 pandemic situation recruitment process was suspended which resulted in deficiency in overall manpower.
(ii) The applicant was enrolled on 09.09.2005 and completed 17 years service. However, he was required to complete 24 years service as per terms and condition of his rank.
(iii) The applicant was in low medical category P2 (Permt) w.e.f. 22.09.2021 for disability 'Simple Obesity' which could not be considered an extreme compassionate ground. He was recommended to be retained in service to mitigate deficiency in clerical cadre.

10. Thus, considering all aspects in view, it emerges that the applicant does not want to serve in the Army owing to his health as well as deteriorating

	health of his parents and respondents are not discharging him due to shortage of manpower in clerical cadre. 11. In view of the above, we direct the respondents to re-consider applicant's request for premature discharge from service. 12. With the aforesaid observation, the O.A. is disposed of. 13. No order as to costs. 14. Miscellaneous applications, pending if any, stand disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 222 of 2022

Ex. Hav. Haricharan Singh Yadav Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Shri D.K. Pandey, Ld. Counsel for the respondents are present. As prayed by learned counsel for the respondents, list on **04.08.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 279 of 2022 with M.A. No. 326 of 2022

Smt. Janki Devi Chhetri W/o
Late Ex. Hav. Rohit Dhar Chhetri 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Ved Prakash Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. As prayed, two weeks further time is granted to learned counsel for the respondents to file counter affidavit. List on **12.09.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 336 of 2022

Ex. Gnr. Ravindra Kumar Singh Yadav Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Shiv Kumar Saroj and Shri V.P. Pandey, Ld. Counsel for the applicant and Shri Rajesh Shukla, Ld. Counsel for the respondents are present. As prayed by learned counsel for the respondents, list on **13.09.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 359 of 2022

Hav/DMT Braj Kishor 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Shiva Nand Mishra, Ms Bandana Mishra, Shri Chaudhary Amarpal Singh Bhatal and Shri Nikhil Kumar Singh, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents are present. Learned counsel for the respondents submits that counter affidavit is ready and will be filed today in the registry during course of the day. List on **02.11.2022** for hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 379 of 2022

Sub Kailash Chandra Bhatt 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri K.K.S. Bisht, Ld. Counsel for the applicant and Shri Rajesh Shukla, Ld. Counsel for the respondents are present. Learned counsel for the applicant seeks and is allowed a week time to file supplementary affidavit. List on **10.08.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 380 of 2022

Ex. Rect Brijesh 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Ashok Singh and Shri Vikas Singh Chauhan, Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondents are present. No counter affidavit has been filed. It must be filed within three weeks else opportunity to file the same shall be closed. List on **15.09.2022.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

T.A. No.19 of 2022

Ex. Rect Soumya Ranjan Swain Petitioner
By Legal Practitioner for the Petitioner

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Vakalatnama filed by Shri Ashok Kumar, Advocate on behalf of the applicant is taken on record. His name shall be shown in the cause list. Vakalatnama filed by Shri RC Shukla, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list. On the case being taken up for hearing Shri Ashok Kumar, Ld. Counsel for the petitioner and Shri Ramesh Chandra Shukla, Ld. Counsel for the respondents are present. List on **12.10.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 302 of 2017 alongwith O.A. No. 146 of 2017 (Decided)

Nb Sub Devendra Prasad Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Heard arguments of learned counsel for the applicant at length. List on **03.08.2022** for further hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 615 of 2017

Layak 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Isharaq Farooqui, Ld. Counsel for the applicant and Shri G.S. Sikarwar, Ld. Counsel for the respondents are present. On request made by learned counsel for the applicant the case is adjourned. List on **14.09.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 260 of 2018

Satendra 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. List on **12.10.2022** for hearing. On the date fixed, learned counsel for the respondents shall produce original record pertaining to the case for perusal of the Bench. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 136 of 2020

Ex. Sub Minhaz Asgar 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Prabhat Kumar Tripathi, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present. On request made by learned counsel for the applicant, list on **11.10.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 585 of 2020

Ex. Rect Vijay Pratap Yadav Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh and Shri Sachindra Pratap Singh, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents are present. On request of learned counsel for the applicant the case is adjourned. List on **01.11.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 65 of 2021 with M.A. No. 247 of 2022

Sep Deepak Singh Chaouhan 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
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Shiva Nand Mishra, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present. List on **10.10.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 255 of 2021

Pradeep Kumar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents are present. List on **08.08.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. 274 of 2021

Hav Vikash Prasad Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** 1. This O.A. has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 by which applicant has made the following prayers:- *(i) Issue/pass an order setting aside the order of dismissal of the applicant from service as orally intimated on 29.01.2021 on behalf of the Commanding Officer, 26 Mechanised Infantry, after summoning the relevant original records.* *(ii) Issue/pass an order directing the respondents to consider case of the applicant for pre-mature discharge on own request after reinstatement and continuity of service with other consequential service benefits.* *(iii) Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.* *(iv) Allowing this application with cost.* 2. Brief facts of the case are that the applicant was enrolled in Mechanised Infantry of the Indian Army. While serving with 55 (Independent) Mechanised Brigade, on account of his family problems, he submitted an application dated 06.03.2017 (Annexure A-1) for premature discharge which was returned vide letter dated 30.03.2017 (Annexure A-2). Thereafter, applicant submitted applications to various authorities of the respondents mentioning his problems and requesting them for his premature discharge from the Army. In response to his request respondent No 3 intimated vide letter dated 09.06.2017 (Annexure A-3) that he has completed 14 years and 04 months service whereas for processing of premature discharge application minimum 15 years service is required. It was also informed that process of premature discharge could take a minimum of 02 years as there was a waiting list in this regard. After completion of 15 years service, applicant once again submitted application dated 20.09.2018 (Annexure A-4) for his premature discharge from the Army mentioning therein numerous personal problems being faced by him which is still pending.

3. While serving under respondent No 5 applicant sought leave on account of his father's ailment and sickness of his wife. Since no leave for the year 2018 was balance to his credit, he was granted 30 days advance of annual leave for the year 2019 w.e.f. 15.10.2018 to 13.11.2018 and he was to report back to unit on 14.11.2018. While at home he was stranded due to various family problems and it was not possible for him to report to his unit for duty on 14.11.2018, therefore about ten days before expiry of leave the applicant requested his Commanding Officer for extension of leave which as per applicant was orally assured.

4. Earlier in regard to his premature discharge from service his wife wrote a letter dated 17.05.2018 to the Hon'ble Defence Minister. In regard to this application the applicant was interviewed by Colonel of the Regiment and Officer-in-Charge Records and he was informed that due to prevailing shortage of clerical cadre in the Regiment as also due to premature discharge ban imposed vide letter dated 03.11.2020, his premature discharge was not feasible at that time and his application for premature discharge may be considered after June 2019 or on improvement of strength of clerks in the Regiment.

5. After expiry of leave when the applicant did not report to his unit, apprehension roll was issued. A Court of Inquiry (C of I) was conducted which declared him a deserter w.e.f. 14.11.2018. He reported voluntarily to Mechanised Infantry Regimental Centre, Ahmednagar on 14.04.2019 at 0800 hrs and he was issued a movement order dated 14.04.2019 with directions to report to his parent unit. However, he was not allowed to report to his unit. On receiving letter dated 27.08.2020 applicant again reported to the unit alongwith his wife on 29.01.2021 but was denied entry and he was verbally told that he was dismissed from service. Later, during pendency of this O.A. he was dismissed from service w.e.f. 14.11.2021 in terms of Army Order 43/2001/V and Army Act Section 20 (3). This O.A. has been filed to set aside oral dismissal order dated 29.01.2021 and grant him premature discharge on own request after re-instatement.

6. Learned counsel for the applicant submitted that the applicant was enrolled in the Army on 18.01.2003. On 06.03.2017 he submitted an application for premature discharge on extreme compassionate grounds but it was turned down by the respondents vide letter dated 30.03.2017. He further submitted that on account of facing grave family problems vis-à-vis military duties, he submitted another application dated 09.06.2017 for premature discharge but that too was turned down on the ground that he did not complete minimum 15 years pensionable service. He submitted that after completion of 15 years of service he again submitted application dated 20.09.2018 for premature discharge but the said application is still pending.

7. Learned counsel for the applicant further submitted that while on leave for the period 14.10.2018 to 13.11.2018 applicant's father and wife suffered sickness and due to this he could not rejoin his unit after completion of aforesaid leave. He submitted that prior to expiry of leave the applicant spoke to his Commanding Officer for extension of leave which was verbally accepted. His other version is that during stay at home his financial condition deteriorated due to expensive treatment of his father and withdrawn amount from AFPP fund exhausted and he had to sale portion of his ancestral land to get rid of the grave financial difficulties.

8. Learned counsel for the applicant further submitted that after getting some relief from his domestic problems he once again called the unit authorities in the month of April 2019 but he was orally informed that he has been declared a deserter and his service documents were despatched to Record Office. He further submitted that thereafter the applicant visited to Record Office on 14.04.2019 and on same day he was handed over a movement order to report to his unit. Accordingly, he reported to his unit on 15.04.2019 but he was not allowed to enter the unit premises. He returned to his home and submitted representations dated 29.05.2019 and 27.07.2020. Later, he was informed by Record Office vide letter dated 27.08.2020 that he should report to his parent unit to resolve the issue. His submission is that after receipt of letter dated 27.08.2020 he alongwith his wife visited the unit on 29.01.2021 but were not allowed to enter the unit premises. He pleaded for setting aside the dismissal order and grant of premature discharge from service.

9. On the other hand, learned counsel for the respondents submitted that the applicant was on 30 days advance of annual leave upto 13.11.2018 and he did not report to his unit after expiry of leave. Accordingly, apprehension roll was initiated and a C of I was conducted which declared him a deserter. He further submitted that on account of his various representations he was interviewed by Colonel Commandant and Officer-in-Charge Records. He was informed to wait till September, 2019 and apply for compassionate posting or attachment on compassionate ground till situation improved.

10. Learned counsel for the respondents further submitted that after expiry of leave the applicant was contacted but his mobile number was found switched off. The learned counsel admitted that the applicant reported to Record Office on 14.04.2019 and a movement order was issued to report to his parent unit but he did not report there and went to his home. He submitted that on receipt of various representations from the applicant he was informed vide letter dated 27.08.2020 to report to his parent unit but he failed to do so. His other submission is that the applicant could not be granted premature discharge from service due to impact of global pandemic (Covid-19) on

recruitment and deficiency in the Indian Army and for that higher authorities vide letter dated 03.11.2020 have imposed partial ban for premature discharge upto March, 2023. His submission is that since the applicant was declared a deserter and never returned, he has been dismissed from service w.e.f. 14.11.2021 after three years of desertion, therefore the O.A. is liable to be dismissed.

11. Heard Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents and perused the material placed on record.

12. Applicant was enrolled in the Army on 18.01.2003. While serving with 26 Mechanised Infantry he was on 30 days leave upto 13.11.2018 and he was to rejoin the unit on 14.11.2018 which he could not rejoin due to his domestic compulsions and treatment of his father. Failing to rejoin his unit, apprehension roll was issued and after 30 days C of I was conducted which declared him a deserter.

13. Applicant approached various authorities for considering his premature discharge. In this regard he was interviewed by Colonel Commandant and Officer-in-Charge Records and he was advised to wait till situation with regard to deficiency of clerks improves. On 14.04.2019 the applicant reported to Record Office and he was issued a movement order. On 15.04.2019 he reported to his unit but was denied. In support of his movement from home to Record Office and from Record Office to the unit and back, he has produced railway tickets indicating that he reported the Army Authorities and a movement order to this effect was issued. Applicant's contention is that he reported to the unit on the authority of movement order dated 14.04.2019 but was denied to enter the unit premises on the behest of the Commanding Officer seems to be logical that he produced railway tickets in support of his journey.

14. On applicant's representations dated 29.05.2019 and 27.07.2019 and his wife's representation dated 10.10.2020 applicant received letter dated 27.08.2020 intimating that he has been declared a deserter w.e.f. 14.11.2018. Thereafter, on 29.01.2021 he alongwith his wife proceeded to his unit to rejoin the duty but was not permitted and informed orally that he has been dismissed from service. In support of his claim for visiting the unit applicant has produced railway reservation slip dated 23.01.2021.

15. We find that the applicant had submitted application for premature discharge but due to administrative reasons his application was turned down keeping in view of Covid-19 pandemic and deficiency of clerk cadre in the unit. We also find that despite being declared a deserter w.e.f. 14.11.2018 the applicant was taken on strength by Record Office on 14.04.2019 and a movement order was issued for his reporting to unit, but he was denied. We further notice that applicant has sufficient proof to establish that he reported the Record Office and a movement order was issued. In this regard respondents'

contention in para 28 of their counter affidavit that during pendency of O.A. applicant has been dismissed from service, in terms of Army Act Section 20 (3) and Army Order 43/2001/DV, w.e.f. 14.11.2021 after completion of 3 years from the date of desertion is not sustainable as he was present in the Record Office on 14.04.2019 where he was issued a movement order.

16. Thus, keeping in view that the applicant made persistent efforts for premature discharge after completion of pensionable service and the fact that he made constant efforts to rejoin the unit and he being issued a movement order dated 14.04.2019 by Record Office and having sufficient proof of his travel to his parent unit, an inference may be drawn that the applicant did not desert the unit but overstayed leave due to his domestic problems.

17. The respondents have not brought on record any document showing that the applicant has been dismissed from service but it has been mentioned in para 28 of their counter affidavit that the applicant has been dismissed from service.

18. In view of the above, the respondents should not have passed applicant's dismissal order dated 14.11.2021, as stated in para 28 of their counter affidavit, which in our opinion is per-se illegal and deserves to be set aside. It is set aside accordingly.

19. We are further of the view that since the applicant has completed pensionable service, he may be discharged from service with all consequential benefits w.e.f. the date he was declared a deserter. The respondents are directed to pay pension and consequential benefits within a period of four months on receipt of certified copy of this order. Default will invite interest @ 8% p.a.

20. In view of the above, O.A. is **allowed**.

21. No order as to costs.

22. Miscellaneous applications, pending if any, stand disposed of.

(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

O.A.(A) 39 of 2017 with M.A. No. 1237 of 2018

Smt. Sunita Singh W/o Abhishek Kumar Singh (In custody) Appellant
By Legal Practitioner for the Appellant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Dr. Ashish Asthana, Shri Shailendra Kumar Singh and Shri Jitendar Saksena, Ld. Counsel for the appellant and Dr. Gyan Singh, Ld. Counsel for the respondents are present. List on **12.08.2022** for hearing. Records be retained by learned counsel for the respondents. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore

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

O.A. No. (A) No. 383 of 2018 along with O.A.(A) No. 169 of 2020

Ex. Cpl.Achchhan Shekh through his wife Smt. Shaheen Shekh Appellant
By Legal Practitioner for the Appellant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	01.08.2022 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, Ld. Counsel for the appellant and Shri G.S. Sikarwar, Ld. Counsel for the respondents are present. List on **02.08.2022**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** rathore