

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

O.A. No. 804 of 2022

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

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-indent: 40px;">Memo of Appearance filed by Shri J.N. Mishra, 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.</p> <p style="text-indent: 40px;">Heard Shri Vinay Pandey, Ld. Counsel for the applicant and Shri J.N. Mishra, Ld. Counsel for the respondents.</p> <p style="text-indent: 40px;">This Original Application has been filed for the grant of disability pension.</p> <p style="text-indent: 40px;">Case needs adjudication.</p> <p style="text-indent: 40px;">Admit.</p> <p style="text-indent: 40px;">Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p style="text-indent: 40px;">List the matter before Registrar on 25.11.2022 for exchange of pleadings.</p> <p style="text-indent: 40px;">List the matter before Tribunal on 20.12.2022.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 993 of 2022 with M.A. No. 994 of 2022 Inre : T.A. No. 06 of 2014

Ex. Sepoy Ramesh Prasad By Legal Practitioner for the Applicant	Applicant
Versus	
Union of India & Others By Legal Practitioner for Respondents	Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: justify;">Memo of Appearance filed by Shri Sunil Sharma, Advocate on behalf of the respondents is taken on record.</p> <p style="text-align: justify;">Heard Shri Shri Raj Kumar Mishra, Ms. Upasna Mishra and Shri Ankit Tiwari, Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondents.</p> <p style="text-align: justify;">This application has been filed against the judgment and order dated 21.12.2021 of this Tribunal by which Transferred Application has been dismissed on merit.</p> <p style="text-align: justify;">It is submitted by the Ld. Counsel for the applicant that applicant wants to file Appeal against the decision of this Tribunal, leave be granted for the same and delay of 05 months and 21 days in filing of application be condoned.</p> <p style="text-align: justify;">In view of the facts stated in affidavit filed in support of delay condonation application, we find that cause shown is sufficient. Accordingly, delay is condoned. Delay condonation application stands disposed off accordingly.</p> <p style="text-align: justify;">Upon hearing submissions of Ld. Counsel of both sides, we find that no point of law of general public importance is involved so that leave may be granted.</p> <p style="text-align: justify;">Accordingly, Leave to Appeal is dismissed.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

**Form No. 4
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
E-Court**

M.A. No. 996 of 2022 with M.A. No. 997 of 2022 Inre : O.A. No. 100 of 2019

Union of India & Others By Legal Practitioner for the Applicants	Versus	Applicants Respondent
Ex. Rect. Rahul Kumar By Legal Practitioner for Respondent		

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J) Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</p> <p style="text-align: center;">Heard Shri Kaushik Chatterjee, Ld. Counsel for the applicants – Union of India & Others.</p> <p style="text-align: center;">In view of facts stated in affidavit filed in support of delay condonation application, delay of 05 months and 20 days in filing of leave to appeal is condoned. Delay condonation application stands disposed off accordingly.</p> <p style="text-align: center;">This application for leave to appeal under Section 30 read with Section 31 of the Armed Forces Tribunal Act, 2007 has been filed against the decision dated 11.11.2021 of this Tribunal in Original Application No. 100 of 2019.</p> <p style="text-align: center;">Upon hearing submissions of Ld. Counsel for the applicants – Union of India & Others, we find that no point of law of general public importance is involved so that leave may be granted.</p> <p style="text-align: center;">Accordingly, Leave to Appeal is dismissed.</p> <p style="text-align: center;"> (Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) </p> <p>AKD/-</p>

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

M.A. No. 1001 of 2022 Inre : O.A. No. 535 of 2021

Ex. Sep. Vijay Shankar Singh Yadava
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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p><u>M.A. No. 1001 of 2022</u></p> <p style="text-indent: 40px;">Memo of Appearance filed by Shri J.N. Mishra, Advocate on behalf of the respondent Nos. 1 to 4 is taken on record.</p> <p style="text-indent: 40px;">Heard Mohd. Zafar Khan, Ld. Counsel for the applicants (respondent Nos. 5 and 6 - Bank in Original Application) and Shri J.N. Mishra, Ld. Counsel for the respondents Nos. 1 to 4.</p> <p style="text-indent: 40px;">This application has been filed by the applicants (respondent Nos. 5 and 6 – Bank in Original Application) seeking modification in order dated 21.03.2022.</p> <p style="text-indent: 40px;">It is submitted by the Ld. Counsel for the applicants (respondent Nos.5 and 6 – Bank in Original Application) that application may be dismissed as withdrawn as applicants do not want to press it.</p> <p style="text-indent: 40px;">Accordingly, modification application is dismissed as withdrawn.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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E-Court

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

Ex. Sep. Munna 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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Ashok Kumar, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents are present.</p> <p>It is submitted by the Ld. Counsel for the respondents that implementation of the order is under active consideration, two weeks further time be granted to file affidavit of compliance.</p> <p>Affidavit of compliance must be filed within two weeks failing which the officer responsible for implementation of the order shall remain physically present in Tribunal on the next date fixed to explain the reason for non-compliance of the order.</p> <p>Cost be paid by the next date fixed.</p> <p>List on 11.11.2022.</p> <p>Let copy of this order be provided to the Ld. Counsel for the respondents/AFT Legal Cell for compliance.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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E-Court

Ex. A. No. 24 of 2022 Inre : O.A. No. 25 of 2021

Smt. Bimala Devi W/o Late Ex. Sep. Gambhir 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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Ashok Kumar, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents are present.</p> <p>It is submitted by the Ld. Counsel for the applicant that applicant's case for implementation of the order has already been processed to the concerned department, three weeks further time is granted, which is allowed.</p> <p>List on 23.11.2022.</p> <p>Let copy of this order be provided to the Ld. Counsel for the respondents/AFT Legal Cell for compliance.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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E-Court

Ex. A. No. 81 of 2022 Inre : O.A. No. 183 of 2018

Ex. Nk. Arun Kumar Pandey
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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p>It is submitted by the Ld. Counsel for the respondents that case file of the applicant is under consideration and presently it is pending with the L.A. (Defence).</p> <p>Affidavit of compliance must be filed within three weeks failing which officer responsible for implementation of order shall remain physical present in the Tribunal on the next date fixed.</p> <p>List on 23.11.2022.</p> <p>Let copy of this order be provided to the Ld. Counsel for the respondents/AFT Legal Cell for compliance.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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Ex. A. No. 84 of 2022 Inre : O.A. No. 170 of 2019

Ex. Sailor Sohan Singh By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal		
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Affidavit of compliance filed by the respondents is taken on record. Heard Shri Sudhir Kumar Singh, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Ld. Counsel for the applicant submits that in R.S.M.B. held under the order of this Tribunal applicant's disability has been assessed @40% for life. He further submits that in view of disability suffered, he is entitled to disability pension from the next date of his discharge whereas respondents have restricted the arrears for a period of three years prior to filing of Original Application, which is incorrect.</p> <p style="text-align: center;">In regard to above, Ld. Counsel for the respondents seeks and is allowed two weeks time to seek instruction.</p> <p style="text-align: center;">List on 10.11.2022.</p> <table style="width: 100%; margin-top: 20px;"><tr><td style="width: 50%; text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</td><td style="width: 50%; text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</td></tr></table> <p style="margin-top: 10px;">AKD/-</p>	(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)
(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)		

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E-Court**

Ex. A. No. 147 of 2022 Inre : O.A. No. 60 of 2016

Lt. Col. Mukesh Baboo through Gulnaz Hussain
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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Affidavit of compliance filed by eh respondents is taken on record. Heard Shri Satendra Kumar Singh, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents. Shri Satendra Kumar Singh, Ld. Counsel appearing for the applicant states that copy of affidavit of compliance has not been received to him. Let copy of affidavit of compliance be furnished to the Ld. Counsel for the applicant forthwith who may file objection, if any, within two weeks. List on 22.11.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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E-Court

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
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Prashant Kumar Singh, Ld. Counsel for the applicant and Ms. Deepti Prasad Bajpai, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Ld. Counsel for the respondents submits that respondents had preferred a Review Application against the judgment and order of this Tribunal, however, they are not aware as to what order has been passé din that Review Application.</p> <p style="text-align: center;">The Review Application has been dismissed on 11.08.2022. Respondents may obtain the copy of order, if they so wish.</p> <p style="text-align: center;">So far execution of order is concerned, respondents seeks and is allowed four weeks time for compliance of order.</p> <p style="text-align: center;">List on 29.11.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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E-Court

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

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

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Yashpal Singh, Ld. Counsel for the applicant and Ms. Deepti Prasad Bajpai, Ld. Counsel for the respondent Nos. 1 to 3 assisted by Shri Rajeev Tiwari, Accounts Officer, principal Controller of Defence Accounts (Pension), Prayagraj and Mohd. Zafar Khan, Ld. Counsel for the respondent No. 4 are present.</p> <p>Ld. Counsel for the respondent Nos. 1 to 3 submits that for the grant of provisional pension to the applicant certain documents are required to be filed by him which he has not filed. She further submits that she may be allowed two days time to bring details of documents to be filed/provided, which is allowed.</p> <p style="text-align:center">List on 12.10.2022.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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E-Court

Ex. A. No. 260 of 2022 Inre : O.A. No. 698 of 2021

Ex. Sub. Brajesh Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Dr. Gyan Singh, Ld. Counsel for the respondents are present.</p> <p>Affidavit of compliance filed by the respondents is taken on record.</p> <p>Ld. Counsel for the applicant submits that order has not been fully complied with. Applicant is direct entry Havildar and as per 6th Central Pay Commission (CPC) the basic pay of applicant has to be fixed at Rs.8,560/- with effect from 01.01.2006 instead of 14.03.2006. The PPO which has been issued by the respondents is in regard to arrears of pension only. The increased pay with effect from 01.01.2006 till the date of discharge is to be paid by the PAO(OR) which has not been paid yet.</p> <p>In regard to above, Ld. Counsel for the respondents seeks and is allowed two weeks time to seek instructions and apprise the Tribunal.</p> <p>List on 17.11.2022.</p> <p>Let copy of this order be provided to the Ld. Counsel for the respondents/AFT Legal Cell for compliance.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 673 of 2021 with M.A. No. 766 of 2021

Ex. Nk. Man Singh

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Veer Raghav Chaubey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Counter Affidavit filed by the respondents is taken on record.</p> <p style="text-align: center;">As prayed by the Ld. Counsel for the respondents, list tomorrow i.e. on 07.10.2022 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 382 of 2022

MWO (HFO) Ram Kumar (Retd.)	Applicant
By Legal Practitioner for the Applicant	
Versus	
Union of India & Others	Respondents
By Legal Practitioner for Respondents	

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">On the request of the Ld. Counsel for the respondents, three weeks further time is granted to file Counter Affidavit as a last chance.</p> <p style="text-align: center;">List on 29.11.2022.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;"> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> </div> <div style="text-align: center;"> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> </div> </div> <p style="margin-top: 20px;">AKD/-</p>

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

O.A. No. 386 of 2022

Sgt. Brajesh Kumar (Retd.)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri Alok Kumar Mishra, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">On the request of the Ld. Counsel for the respondents, three weeks further time is granted to file Counter Affidavit as a last chance.</p> <p style="text-align: center;">List on 29.11.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 434 of 2022

Ex. MWO Sunil Vishwakarma
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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Ms. Kavita Mishra, Ld. Counsel for the respondents are present.</p> <p>On the request of Ld. Counsel for the respondents, two weeks further time is granted, as a last chance, to file Counter Affidavit.</p> <p>List on 02.11.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 436 of 2022

Ex. Sub. Umakant Mishra
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Counter Affidavit filed by the respondents is taken on record. Heard Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant and Shri D.K. Pandey, 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.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 594 of 2020

Ex. Sep. Rahul Banswar
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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Nand Kishore, Ld. Counsel for the applicant and Dr. Chet Narayan Singh, Ld. Counsel for the respondents are present.</p> <p>On the request of Ld. Counsel for the applicant, list on 02.12.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

Form No. 4
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ORDER SHEET
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E-Court

O.A. No. 103 of 2021

Sep. Vinod Kumar Mishra
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Shailendra Kumar Singh and Shri Ravi Kumar Yadav, Ld. Counsel for the applicant and Shri Ram Saran Awasthi, Ld. Counsel for the respondents are present.</p> <p>On the request of Ld. Counsel for the applicant, list on 02.12.2022.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

E-Court

O.A. No. 465 of 2022

Ex. Sgt. Prakash Chandra Sharma
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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri Raj Kumar Mishra, Shri Kapil Sharma and Shri Bipin Kumar Sharma, Ld. Counsel for the applicant and Ms. Amrita Chakraborty, Ld. Counsel for the respondents.</p> <p>Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 20.06.2001 and retired on 30.06.2021 is entitled for grant of last increment due on 01.07.2021 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, Ex HFL Sarvesh Kumar vs. Union of India & Ors, decided on 12.08.2021.</p> <p>On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2021 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2021. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>The law on notional increment has already been settled by the Hon'ble Madra High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No.22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p> <p style="text-align: center;"><i>"5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied</i></p>

the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its Secretary to Government, Finance Department and others v. M. Balasubramaniam, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2021, but the increment fell due on the next day of his retirement 01.07.2021, on which date he was not in service, he has to be treated as having completed one full year of service.

In view of the above, the Original Application is allowed. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2020 to 30.06.2021, as he has completed one full year of service, though his increment fell on 01.07.2021, for the purpose of pensionary benefits and not for any other purpose. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

E-Court

O.A. No. 467 of 2022

Ex. Sgt. Nishad KA
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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri Raj Kumar Mishra, Shri Kapil Sharma and Shri Bipin Kumar Sharma, Ld. Counsel for the applicant and Shri Ram Saran Awasthi, Ld. Counsel for the respondents.</p> <p>Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 20.06.2001 and retired on 30.06.2021 is entitled for grant of last increment due on 01.07.2021 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, Ex HFL Sarvesh Kumar vs. Union of India & Ors, decided on 12.08.2021.</p> <p>On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2021 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2021. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>The law on notional increment has already been settled by the Hon'ble Madra High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No.22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p> <p style="text-align: center;">“5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in</p>

O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its [Secretary to Government, Finance Department and others v. M. Balasubramaniam](#), reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2021, but the increment fell due on the next day of his retirement 01.07.2021, on which date he was not in service, he has to be treated as having completed one full year of service.

In view of the above, the Original Application is allowed. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2020 to 30.06.2021, as he has completed one full year of service, though his increment fell on 01.07.2021, for the purpose of pensionary benefits and not for any other purpose. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

O.A. No. 469 of 2022

Ex. JWO Saroj Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri Raj Kumar Mishra, Shri Kapil Sharma and Shri Bipin Kumar Sharma, Ld. Counsel for the applicant and Shri Devesh Kumar, Ld. Counsel for the respondents.</p> <p>Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 20.06.2001 and retired on 30.06.2021 is entitled for grant of last increment due on 01.07.2021 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, Ex HFL Sarvesh Kumar vs. Union of India & Ors, decided on 12.08.2021.</p> <p>On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2021 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2021. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>The law on notional increment has already been settled by the Hon'ble Madra High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No.22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p> <p><i>"5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only</i></p>

entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its [Secretary to Government, Finance Department and others v. M. Balasubramaniam](#), reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2021, but the increment fell due on the next day of his retirement 01.07.2021, on which date he was not in service, he has to be treated as having completed one full year of service.

In view of the above, the Original Application is allowed. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2020 to 30.06.2021, as he has completed one full year of service, though his increment fell on 01.07.2021, for the purpose of pensionary benefits and not for any other purpose. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

E-Court

O.A. No. 470 of 2022

Ex. Sgt. Mohit Kumar Goel
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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Counter affidavit filed by the respondents is taken on record.</p> <p>Heard Shri Raj Kumar Mishra, Shri Kapil Sharma and Shri Bipin Kumar Sharma, Ld. Counsel for the applicant and Shri Vishwesh Kumar, Ld. Counsel for the respondents.</p> <p>Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 20.06.2001 and retired on 30.06.2021 is entitled for grant of last increment due on 01.07.2021 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, Ex HFL Sarvesh Kumar vs. Union of India & Ors, decided on 12.08.2021.</p> <p>On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2021 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2021. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>The law on notional increment has already been settled by the Hon'ble Madra High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No.22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p> <p>“5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from</p>

01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its [Secretary to Government, Finance Department and others v. M. Balasubramaniam](#), reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2021, but the increment fell due on the next day of his retirement 01.07.2021, on which date he was not in service, he has to be treated as having completed one full year of service.

In view of the above, the Original Application is allowed. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2020 to 30.06.2021, as he has completed one full year of service, though his increment fell on 01.07.2021, for the purpose of pensionary benefits and not for any other purpose. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

E-Court

O.A. No. 471 of 2022

MWO (HFO) Mohan Pal (Retd)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri Raj Kumar Mishra, Shri Kapil Sharma and Shri Bipin Kumar Sharma, Ld. Counsel for the applicant and Shri RKS Chauhan, Ld. Counsel for the respondents.</p> <p>Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 23.12.1983 and retired on 30.06.2021 is entitled for grant of last increment due on 01.07.2021 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, Ex HFL Sarvesh Kumar vs. Union of India & Ors, decided on 12.08.2021.</p> <p>On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2021 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2021. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>The law on notional increment has already been settled by the Hon'ble Madra High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No.22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p> <p>“5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.</p> <p>6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be</p>

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In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2021, but the increment fell due on the next day of his retirement 01.07.2021, on which date he was not in service, he has to be treated as having completed one full year of service.

In view of the above, the Original Application is allowed. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2020 to 30.06.2021, as he has completed one full year of service, though his increment fell on 01.07.2021, for the purpose of pensionary benefits and not for any other purpose. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

E-Court

O.A. No. 472 of 2022

WO Rajmuni (Retd)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Counter affidavit filed by the respondents is taken on record.</p> <p>Heard Shri Raj Kumar Mishra, Shri Kapil Sharma and Shri Bipin Kumar Sharma, Ld. Counsel for the applicant and Shri Somesh Singh, Ld. Counsel for the respondents.</p> <p>Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 16.02.1985 and retired on 30.06.2021 is entitled for grant of last increment due on 01.07.2021 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, Ex HFL Sarvesh Kumar vs. Union of India & Ors, decided on 12.08.2021.</p> <p>On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2021 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2021. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>The law on notional increment has already been settled by the Hon'ble Madra High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No.22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p> <p><i>"5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.</i></p>

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its [Secretary to Government, Finance Department and others v. M. Balasubramaniam](#), reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2021, but the increment fell due on the next day of his retirement 01.07.2021, on which date he was not in service, he has to be treated as having completed one full year of service.

In view of the above, the Original Application is allowed. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2020 to 30.06.2021, as he has completed one full year of service, though his increment fell on 01.07.2021, for the purpose of pensionary benefits and not for any other purpose. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

E-Court

O.A. No. 473 of 2022

Ex Sgt. Ghanshyam Upadhyay
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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri Raj Kumar Mishra, Shri Kapil Sharma and Shri Bipin Kumar Sharma, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents.</p> <p>Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 20.06.2001 and retired on 30.06.2021 is entitled for grant of last increment due on 01.07.2021 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, Ex HFL Sarvesh Kumar vs. Union of India & Ors, decided on 12.08.2021.</p> <p>On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2021 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2021. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>The law on notional increment has already been settled by the Hon'ble Madra High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No.22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p> <p>“5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.</p> <p>6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its Secretary to Government, Finance Department and others v. M. Balasubramaniam, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by</p>

observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2021, but the increment fell due on the next day of his retirement 01.07.2021, on which date he was not in service, he has to be treated as having completed one full year of service.

In view of the above, the Original Application is allowed. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2020 to 30.06.2021, as he has completed one full year of service, though his increment fell on 01.07.2021, for the purpose of pensionary benefits and not for any other purpose. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

By Circulation

R.A. No. 87 of 2022 with M.A. No. 1003 of 2022 Inre : O.A. No. 06 of 2020

Ex. AC (U/T) Manish Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>The file has been placed before us by Circulation.</p> <p><u>M.A. No. 1003 of 2022</u></p> <p>For the reasons stated in affidavit filed in support of delay condonation application, delay of 05 months and 22 days in filing of Review Application is condoned. Delay condonation application stands disposed off accordingly.</p> <p><u>R.A. No. 87 of 2022</u></p> <p>The applicant has filed this application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 by which applicant has prayed for review and setting aside the judgement and order dated 25.01.2021 of this Tribunal in Original Application No. 06 of 2020 by mean of which Original Application has been dismissed. The Review Application has been filed <i>inter alia</i> on the ground that this Tribunal while deciding the Original Application has erred to consider the fact that the discharge certificate issued by the opposite party No. 3 provides service particulars at part – IV which say that the individual is discharged from service with pension as an Ex-Servicemen with medical and canteen facilities and on the basis of that applicant had prayed for the disability pension.</p> <p>It is a settled proposition of law that the scope of the review is limited and until it is shown that there is error apparent on the face of record in the judgment and order sought to be reviewed, the same cannot be reviewed.</p> <p>For ready reference, Order 47, Rule 1 sub-rule (1) of the Code of Civil Procedure, 1908 is reproduced below :-</p> <p><i>“1. Application for review of judgment.- (1) any person considering himself aggrieved-</i></p> <ul style="list-style-type: none"><i>(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,</i><i>(b) by a decree or order from which no appeal is allowed, or</i><i>(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record , or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.”</i>

In view of the principles of law laid down by the Hon'ble Supreme Court in various decisions, it is settled that the scope of review jurisdiction is very limited and re-hearing is not permissible. The Hon'ble Supreme Court in Para 9 of its judgment in the case of **Parsion Devi and others vs. Sumitri Devi and others**, reported in (1997) 8 Supreme Court Cases 715, has observed as under :-

"9. Under Order 47, Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47, Rule 1 CPC. In exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise."

Further, the Hon'ble Supreme Court in Para 26 of its judgment in the case of **S. Madhusudhan Reddy Versus V. Narayana Reddy and Others**, Civil Appeal Nos. 5503-04 of 2022, decided on 18.08.2022, has observed as under :-

"26. As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court's jurisdiction of review, is not the same as that of an appeal. A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order XLVII Rule 1 CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order XLVII Rule 1 for reviewing a judgment has been described as "for any other sufficient reason". The said phrase has been explained to mean "a reason sufficient on grounds, at least analogous to those specified in the rule"

In the light of the legal position crystalized above, we have gone through the judgment and order sought to be reviewed and no illegality or irregularity or error apparent on the face of record being found therein, we are of the view that there is no force in the grounds taken in the review application so that order may be reviewed.

In the result, Review Application is **rejected**.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/-

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

R.A. No. 86 of 2022 Inre : O.A. No. 276 of 2022

LS GI (S) Abhishek Kumar (Retd.)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">The file has been placed before us by Circulation.</p> <p>The applicant has filed this application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 by which applicant has prayed for review and setting aside the judgement and order dated 10.08.2022 of this Tribunal in Original Application No. 276 of 2022 by mean of which Original Application has been dismissed. The Review Application has been filed <i>inter alia</i> on the ground that the applicant was awarded punishment of reduction in rank which is a major penalty and deprivation of good conduct badges by the respondents in proceedings of summary trial.</p> <p>It is a settled proposition of law that the scope of the review is limited and until it is shown that there is error apparent on the face of record in the judgment and order sought to be reviewed, the same cannot be reviewed.</p> <p>For ready reference, Order 47, Rule 1 sub-rule (1) of the Code of Civil Procedure, 1908 is reproduced below :-</p> <p style="text-align: center;"><i>“1. Application for review of judgment.- (1) any person considering himself aggrieved-</i></p> <p style="text-align: center;"><i>(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,</i></p> <p style="text-align: center;"><i>(b) by a decree or order from which no appeal is allowed, or</i></p> <p style="text-align: center;"><i>(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record , or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.”</i></p> <p>In view of the principles of law laid down by the Hon'ble Supreme Court in various decisions, it is settled that the scope of review jurisdiction is very limited and re-hearing is not permissible. The Hon'ble Supreme Court in Para 9</p>

of its judgment in the case of **Parsion Devi and others vs. Sumitri Devi and others**, reported in (1997) 8 Supreme Court Cases 715, has observed as under :-

“9. Under Order 47, Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self- evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47, Rule 1 CPC. In exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise."

Further, the Hon'ble Supreme Court in Para 26 of its judgment in the case of **S. Madhusudhan Reddy Versus V. Narayana Reddy and Others**, Civil Appeal Nos. 5503-04 of 2022, decided on 18.08.2022, has observed as under :-

“26. As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court's jurisdiction of review, is not the same as that of an appeal. A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order XLVII Rule 1 CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order XLVII Rule 1 for reviewing a judgment has been described as “for any other sufficient reason”. The said phrase has been explained to mean “a reason sufficient on grounds, at least analogous to those specified in the rule”

In the light of the legal position crystalized above, we have gone through the judgment and order sought to be reviewed and no illegality or irregularity or error apparent on the face of record being found therein, we are of the view that there is no force in the grounds taken in the review application so that order may be reviewed.

In the result, Review Application is **rejected**.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/-

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

T.A. No. 8 of 2022

Ex Rect Surendra Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Vinay Pandey, Ld. Counsel for the applicant and Shri J.N. Mishra, Ld. Counsel for the respondents are present.</p> <p>On request of learned counsel for the applicant, two weeks further time is granted to take steps.</p> <p>List on 14.10.2022.</p> <p style="display: flex; justify-content: space-between;">(Vice Admiral Abhay Raghunath Karve) Member (A)(Justice Umesh Chandra Srivastava) Member (J)</p> <p>rathore</p>

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

M.A. No. 998 of 2022 Inre O.A. (A) 441 of 2022

Rect Vivek Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Puru Mudgal holding brief for Wg Cdr Ajit Kakkar (Retd), Ld. Counsel for the applicant and Shri (Dr) Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;"><u>M.A. No. 998 of 2022</u></p> <p>This application has been filed by learned counsel for the applicant for fixing an early date in O.A. (A) No 441 of 2022.</p> <p>Learned counsel for the respondents states that he has not received copy of early hearing application.</p> <p>At this stage learned counsel for the applicant submits that he does not wish to press the application, and this may be dismissed as not pressed.</p> <p>Accordingly, this application is dismissed as not pressed.</p> <p>Applicant is advised that in future he will not file such applications in this Tribunal before giving copy to learned counsel for the respondents.</p> <p style="text-align: center;"><u>O.A. (A) 441 of 2022</u></p> <p>List on 17.10.2022.</p> <p style="text-align: center;"> (Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) </p> <p>rathore</p>	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Puru Mudgal holding brief for Wg Cdr Ajit Kakkar (Retd), Ld. Counsel for the applicant and Shri (Dr) Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;"><u>M.A. No. 998 of 2022</u></p> <p>This application has been filed by learned counsel for the applicant for fixing an early date in O.A. (A) No 441 of 2022.</p> <p>Learned counsel for the respondents states that he has not received copy of early hearing application.</p> <p>At this stage learned counsel for the applicant submits that he does not wish to press the application, and this may be dismissed as not pressed.</p> <p>Accordingly, this application is dismissed as not pressed.</p> <p>Applicant is advised that in future he will not file such applications in this Tribunal before giving copy to learned counsel for the respondents.</p> <p style="text-align: center;"><u>O.A. (A) 441 of 2022</u></p> <p>List on 17.10.2022.</p> <p style="text-align: center;"> (Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) </p> <p>rathore</p>

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

O.A. No. 301 of 2012

Padam Bahadur Gurung & Other
By Legal Practitioner for the Applicants

Applicants

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Veer Raghav Chaubey, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the applicant submits that similar matter is pending before the Hon'ble Apex Court and the case is listed in the month of November, 2022.</p> <p>In view of the above, list on 17.01.2023.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 138 of 2016

VK Prajapati & Ors
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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri Rajeev Srivastava, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents.</p> <p>2. The facts on record reveal that the applicants were enrolled in different trades of Indian Air Force (IAF) in group IV and retired on completion of their terms of engagement. They were discharged from service in their respective groups. Subsequent to trade rationalization w.e.f. 10.10.1997 the trades and groups were restructured as X, Y and Z. The applicants being in group IV were restructured in group Y w.e.f. 10.10.1997 but granted pension equivalent to group Z category. Their grievance is that they should be granted pensionary benefits in group Y category. In regard to this applicant No 1 submitted a representation dated 04.02.2016 based on order passed by this Tribunal in O.A. No 28 of 2016 but this representation was rejected vide order dated 12.04.2016. This O.A. has been filed by the applicants for grant of pension in 'Y' group.</p> <p>3. Learned counsel for the applicants submitted that the applicants were enrolled in the different trades which fell within the group IV of the Indian Air Force and on completion of their regular term of engagement they were discharged from their services. It was further submitted that since the applicants were enrolled in the trades of group IV of IAF in which upto the rank of Corporal, their pay structure was little different from the trades of group III of the IAF and after getting Sergeant (Sgt) rank all the personnel initially appointed in group IV were being paid equal salary to the rank of group III and after retirement they were paid pension accordingly. It was further submitted that this procedure continued upto 6th CPC i.e. till 30.06.2009.</p> <p>4. Learned counsel for the applicant further submitted that from 01.07.2009 due to misconception the trade MT driver was awarded revised pension of Rs</p>

4519/- p.m. instead of Rs 4840/- p.m. making anomaly to all the applicants and causing financial loss. It was further submitted that PCDA (P), Allahabad vide their circular No 478 dated 13.02.2012 (Annexure A-4) have equated group IV IAF personnel to group Y, therefore they are entitled to be granted pension according to group Y category. It was further submitted that the respondents vide letter dated 11.05.2012 have conceded that there was anomaly in the restructuring from group I to V to X,Y, Z and it needs to be rectified to avoid intervention of court of law. Reliance has been made by learned counsel for the applicant on order passed in CWP No 15400 of 2006, **Jay Narayan Jakhar vs Union of India & Ors** and pleaded that anomaly in the instant case should be removed based on the aforesaid order and applicants' pension should be re-fixed w.e.f. 01.01.1996 by placing the applicants in group Y consequent to rationalization of trade groups by anomaly committee and granted pension and arrears accordingly.

5. On the other hand, learned counsel for the respondents submitted that the applicants were enrolled in IAF in the different trades which fell within the group IV and they were discharged from service on completion of their regular terms of engagement in the rank of Sgt. The respondents further submitted that consequent to restructuring of groups, Sgts were regrouped in group Y and accordingly, they were paid pay and pension. The respondents, however submitted that pensionary benefits for the rank of Sgt (group III, IV and V) were same till implementation of 6th CPC recommendations but since this parity has been disturbed after issuance of circular No 430 dated 10.03.2010 by PCDA (P), Allahabad based on GOI, MoD letter dated 08.03.2010, therefore comments should be sought from the office of PCDA (P), Allahabad.

6. Heard learned counsel for the parties and perused the record.

7. The applicants were enrolled in the IAF in the different trades which fell within the group IV and discharged from service after completion of their regular term of engagement in the rank of Sgt. Consequent to restructuring of groups, personnel belonging to group III, IV and V were merged to form group Y except the trade of Musician which was re-categorised as group Z. The pension for group III, IV and V were same till implementation of 6th CPC. PCDA (P) Allahabad Circular No 430 dated 10.03.2010 has revised the pension of group III, IV and V tradesmen. Separate table Nos 114 and 115 were issued thereby fixing the pension of group IV and V lower than the original group III. This has created an anomaly and disparity w.e.f. 01.07.2009 i.e. implementation of the ibid govt orders.

8. We observe that the Govt of India, MoD, Deptt of Ex-servicemen Welfare has found the anomaly vide note dated 11.05.2012 which for convenience sake is reproduced as under:-

“Extract of Min of Def, Deptt of Ex-servicemen Welfare D(Pension/Policy) minute dated 11.05.2012

1. Air HQrs letter No Air Hqrs/41003/Misc/PA-III dated 26th April 2012 forwarding a statement of case for removal of anomaly between group III, IV

and V, duly recommended by ACAS (PA&C) is placed opposite for kind perusal please.

2. Based on the recommendations of Ajit Kumar Committee constituted by the Ministry of Defence, the trade and groups in the Armed Force were restructured as X,Y and Z with effect from 10 Oct 1997. Prior to the restructuring, the trades and groups in IAF were placed in five different categories, ranging from I to V. Subsequently to trade rationalization w.e.f. 10.10.1997, the erstwhile group III, IV and V were merged to form group Y, except the trade of 'Musician' which has been re-categorized as group Z. The pay and allowances of group III to V tradesmen (from Sgt rank onwards) were at par and accordingly their pensionary benefits were also same from Sgt rank onwards. With the issue of MoD letter dated 8.3.2010, this parity has been disturbed and an anomaly has been created. It has been proposed that rectification action may be taken to remove the anomaly and to avoid the possibility of intervention from the court of law.

3. Since the DGL for MoD letter dated 8.3.2010 was prepared by the CGDA office in consultation with PCDA (P) Allahabad, we may request CGDA office to kindly examine the matter and corrigendum to MoD letter dated 8.3.2010, if any required, be submitted to this Ministry along with self contained note to enable us to examine the case further."

9. During the course of hearing learned counsel for the applicant admitted that grievance of the applicants has been redressed by the anomaly committee and revised PPOs have been issued. He, however submitted that consequent to delayed payment of revised pension, applicants be granted interest on arrears. In this regard we find that since the revised payment has been received during pendency of the O.A., applicants are not entitled to interest on arrears.

10. In view of the fact that the grievance of the applicant has been redressed and in pursuant to that the revised PPOs have been issued, the O.A. is rendered infructuous.

11. Accordingly, the O.A. is dismissed being infructuous.

12. No order as to costs.

13. Misc applications, pending if any, are 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
E-Court No.1

O.A. No. 772 of 2020

Milton Singh Tomar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Shri R.C. Shukla, Ld. Counsel for the respondents are present.</p> <p>Matter needs physical hearing.</p> <p>List on 13.12.2022 for hearing.</p> <p>On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 878 of 2021

Ex Deem (P) Ravi 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
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Puru Mudgal, Advocate holding brief for Wg Cdr Ajit Kakkar (Retd), Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p>Counter affidavit filed by the respondents is taken on record.</p> <p>Learned counsel for the applicant prays for and is granted two weeks time to file rejoinder affidavit.</p> <p>List on 11.11.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 454 of 2022

Ex Sub Narpal 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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align:justify">Heard Shri Rajeev Srivastava, Ld. Counsel for the applicant and Shri Manu Kumar Srivastava, Ld. Counsel for the respondents. Counter affidavit filed by the respondents is taken on record. The O.A. is partly allowed. For orders, see our judgment passed on separate sheets.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align:center">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>rathore</p>

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

O.A. No. 457 of 2022

Ex Sep Kishor Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Yashpal Singh, Ld. Counsel for the applicant and Shri RC Shukla, Ld. Counsel for the respondents are present.</p> <p>On request of learned counsel for the respondents three weeks further time is allowed to file counter affidavit as a last chance.</p> <p>List on 09.12.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 459 of 2022

Col George Alexander (Retd)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri KKS Bisht, Ld. Counsel for the applicant and Shri Pushpendra Mishrxa, Ld. Counsel for the respondents are present.</p> <p>The O.A. is allowed.</p> <p>For orders, see our judgment passed on separate sheets.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 462 of 2022

Ex Dfr Pushpendra 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>06.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri KK Misra, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p>On request of learned counsel for the respondents two weeks further time is allowed to file counter affidavit as a last chance.</p> <p>List on 09.12.2022.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

