

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

O.A. No. 688 of 2021

Ex. Nk. Neerpal 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>21.01.2022</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 R. Chandra, Ld. Counsel for the applicant and Shri Rajeev Narayan 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) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 343 of 2021

Ex. JWO Vinod Kumar Chowbey
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>21.01.2022</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;">Counter Affidavit filed by the respondents and Rejoinder Affidavit filed by the applicant are taken on record.</p> <p style="text-align: center;">Heard Shri Shiv Kant Pandey, Shri Amit Pandey and Ms. Nisha Pandey, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Original Application is allowed.</p> <p style="text-align: center;">For order, see our Judgment passed on separate sheets.</p> <p style="text-align: center;">Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 3 of 2020 Inre : O.A. No. 238 of 2019

Ex. L/Nk. Awadhesh Kumar Pandey
By Legal Practitioner for the Applicant

Applicant

Versus

Chief of Army Staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>21.01.2022</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 the respondents is taken on record.</p> <p>Heard Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents assisted by Capt. Priyanka, Departmental Representative of respondents.</p> <p>Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj (Allahabad) is also present to assist the Tribunal.</p> <p>Ld. Counsel for the applicant submits that despite PPO issued in the matter on 23.11.2021 nothing has been credited in applicant's account. He further submits that applicant has received a letter dated 23.11.2021 issued by the Records wherein applicant has been required to complete descriptive role through Zila Sainik Kalyan Board in triplicate and deposit the same directly with PDA for further submission to SBI, CPPC, Allahabad and to return one copy to Records. He submits that usually descriptive role is completed by the Records Office, not by the individual.</p> <p>In reply, Ld. Counsel for the respondents submits that Records Office being located in Cannore, Kerala, the letter has been issued to hasten the matter.</p> <p>Considering that PPO in the matter has been issued on 23.11.2021 and Records Office being located in Cannore, Kerala, the letter dated 23.11.2021 has been issued to hasten the matter, applicant is directed to complete descriptive role in triplicate through Zila Sainik Kalyan Board and deposit directly with PDA for further submission to the concerned Bank. Applicant is further directed to submit one set of descriptive role in triplicate to the Ld. Counsel for the respondents so that the same may be sent by him to the concerned Records through AFT Legal Cell. Let this exercise be completed within a week.</p> <p>List on 14.02.2022.</p> <p>Let copy of this order be provided to the Ld. Counsel for the respondents/AFT Legal Cell within two days for compliance.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 39 of 2022 with M.A. No. 52 of 2022

Spr. Basav Raj Lamani
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>21.01.2022</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 Ms. Appoli Srivastava, Advocate on behalf of the respondents is taken on record.</p> <p style="text-align:justify">Heard Col. R.C. Dixit (Retd.), Ld. Counsel for the applicant and Ms. Appoli Srivastava, Ld. Counsel for the respondents.</p> <p style="text-align:justify">This Original Application has been filed against the order passed by the respondents whereby applicant has been dismissed from service being in Low Medical Category.</p> <p style="text-align:justify">There is a delay of 04 years, 08 months and 23 days in filing of Original Application regarding which an application for condonation of delay has been filed. In support, an affidavit has also been filed stating therein that delay in filing of Original Application is not intentional, but for the reasons stated in affidavit.</p> <p style="text-align:justify">Ld. Counsel for the respondents has vehemently opposed the prayer and has submitted that no plausible explanation has been offered by the applicant, delay should not be condoned.</p> <p style="text-align:justify">Upon hearing submissions of Ld. Counsel of both sides and considering the facts and circumstances of the case, we find that delay is liable to be condoned. Accordingly, delay is condoned. Delay condonation application stands allowed accordingly.</p> <p><u>O.A. No. 39 of 2022</u></p> <p style="text-align:justify">Points raised in Original Application need consideration, therefore, Original Application is admitted for hearing.</p> <p style="text-align:justify">Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Thereafter, Rejoinder Affidavit, if any, may be filed within two weeks.</p> <p style="text-align:justify">List the matter before Registrar on 14.03.2022 for exchange of pleadings.</p> <p style="text-align:justify">List the matter before Tribunal on 08.04.2022.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 116 of 2018 Inre : O.A. No. 137 of 2017

Awadhesh 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>21.01.2022</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;">Heard Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj (Allahabad) is also present to assist the Tribunal.</p> <p style="text-align: center;">Referring a letter dated 03.01.2022 issued by Artillery Records, Ld. Counsel appearing for respondents submits that three weeks further time be granted to file affidavit of compliance.</p> <p style="text-align: center;">Considering the request and also that Government Sanction has been accorded, respondents are directed to file affidavit of compliance within two weeks without fail.</p> <p style="text-align: center;">List on 10.02.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 33 of 2020 Inre : O.A. No. 522 of 2017

Ex. Hony. Nb. Sub. Niyaz Ahmed
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>21.01.2022</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 V.P. Pandey, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents assisted by Major Tarun Waghchoure, Departmental Representative for the respondents.</p> <p style="text-align:justify">During the course of hearing Major Tarun Waghchoure, Departmental Representative submits that Special Leave Petition filed by the respondents is listed for hearing on 01.04.2022 in the Hon'ble Apex Court. In regard to cost, he submits that Rs.10,000/- has been deposited by the Local Unit and remaining Rs.5,000/- will be paid very soon.</p> <p style="text-align:justify">In view of aforesaid, respondents are directed to either bring stay order within four weeks or make compliance of the order.</p> <p style="text-align:center">List on 03.03.2022.</p> <p style="text-align:justify">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align:justify">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

Ex. A. No. 71 of 2021 Inre : O.A. No. 309 of 2018

Jamil Ahamad
 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>21.01.2022</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 Satendra Kumar Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p>Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj (Allahabad) is also present to assist the Tribunal.</p> <p>An affidavit of compliance filed by the respondents is taken on record.</p> <p>Shri Amit Jaiswal, Ld. Counsel appearing on behalf of respondents submits that necessary documents required for generation of PPO have been sent to concerned Pay and Accounts Office. He further submits to grant four weeks further time to file copy of PPO which is allowed.</p> <p style="text-align: center;">List on 14.03.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

M.A. No. 1770 of 2016 Inre : O.A. No. (Nil) of 2016

Amar Bahadur 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>21.01.2022</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. 748 of 2021 and M.A. No. 749 of 2021</u></p> <p>Heard Shri Santosh Singh, Ld. Counsel for the applicant and Dr. Chet Narayan Singh, Ld. Counsel for the respondents.</p> <p>Applicant has filed this application seeking substitution of her name in place of original applicant saying original applicant has died during the pendency of Original Application. She has also filed an application for setting aside the order of abatement as substitution application could not be filed within 90 days from the date of death. An affidavit in support of that application has also been filed.</p> <p>We have gone through the affidavit and find that cause shown is sufficient. Accordingly, abatement is set aside and substitution application is allowed.</p> <p>Let amendments be incorporated within a week.</p> <p>List on 21.02.2022.</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
Court No.1 (E. Court)

O.A. No. 32 of 2020 with M.A. No. 197 of 2019

Smt. Shanti Devi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>21.01.2022</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. 197 of 2019</u></p> <p>Heard Shri Amit Verma, Ld. Counsel for the applicant, Shri Arun Kumar Sahu, Ld. Counsel for the respondent Nos. 1 to 3 and Shri Gaurav Gunjan, Ld. Counsel for the respondent Nos. 4 and 5.</p> <p>Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj (Allahabad) is also present to assist the Tribunal.</p> <p>The Original Application has been filed with delay of 26 years and 04 months.</p> <p>The submission of Ld. Counsel for the applicant is that delay caused in filing of Original Application is not deliberate, but on account of facts stated in affidavit filed in support of the application.</p> <p>Ld. Counsel for the respondents has opposed on the ground that explanation offered for condonation of delay by the applicant is not satisfactory, hence delay should not be condoned.</p> <p>We have gone through affidavit filed in support of application for condonation of delay and find that grounds stated therein are genuine and sufficient. As such, delay caused in filing of application is condoned. Application stands decided accordingly.</p> <p><u>O.A. No. 32 of 2020</u></p> <p>Heard Shri Amit Verma, Ld. Counsel for the applicant, Shri Arun Kumar Sahu, Ld. Counsel for the respondent Nos. 1 to 3 and Shri Gaurav Gunjan, Ld. Counsel for the respondent Nos. 4 and 5 assisted by Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj (Allahabad).</p>

Ld. Counsel for the applicant submits that when applicant's husband Late Krishna Pandey died he was in the rank of Havildar, she is entitled to get Liberalized Family Pension of the same rank, and not of the rank of Sepoy.

In Counter Affidavit filed by the respondent Nos. 1 to 3 they have admitted the fact that when Late husband of the applicant had died he was in the rank of Havildar. They have also stated that death of applicant's husband being a case of Battle Casualty applicant has been allowed Liberalized Family Pension of the rank of Havildar, and not of the rank of Sepoy. They have also stated that PPO which has been issued for the grant of Liberalized Family Pension is also of the rank of Havildar, not of the rank of Sepoy. However, the copy of PPO has not been filed.

In the Counter Affidavit filed by the respondent Nos. 4 and 5 they have stated that they have received a letter dated 20.09.2017 issued by Senior Accounts Officer (Pensions), Principal Controller of Defence Accounts (Pensions), Allahabad wherein rank of the applicant's husband shown to be is of Sepoy, not of the rank of Havildar. They have filed the copy of the letter as Annexure R-2. They have also not filed the copy of PPO which respondent Nos. 1 to 3 state that it is in respect of Havildar.

Shri Rajeev Tiwari, Accounts Officer, PCDA (Pension), Prayagraj submits that pension credited in applicant's account is of the rank of Havildar, not of the Sepoy.

Considering the aforesaid submissions, respondent Nos. 4 and 5 are directed to credit Liberalized Family Pension of the rank of Havildar and difference of arrears, if any, in account of applicant, if not paid, within four weeks from today failing which they shall be liable to pay interest @8% per annum till actual payment.

With the above, Original Application is finally **disposed off**.

(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
Court No.1 (E. Court)

O.A. No. 120 of 2020

Smt. Anita Singh W/o Late Ex. Nk. Indrajeet Singh & Others Applicants
 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>21.01.2022</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;">Heard Shri Yashpal Singh, Ld. Counsel for the applicants and Shri D.K. Pandey, Ld. Counsel for the respondent Nos. 1 to 5.</p> <p style="text-align: center;">No one is present on behalf of respondent No. 6 despite service of notice being held sufficient on her. The Original Application shall proceed <i>exparte</i> against her.</p> <p style="text-align: center;">In the Original Application applicant has stated that with regard to Smt. Neelam Singh, the so called second wife, the deceased soldier had filed a Suit in the Civil Court under Section 11 of the Hindu Marriage Act to declare her marriage null and void. However, applicant has not made clear whether Smt. Neelam Singh had appeared in the said Suit and had filed any Written Statement or not.</p> <p style="text-align: center;">Applicant is, therefore, directed to file copy of plaint, written statement, if any, and entire order-sheet of the said Suit within three weeks from today.</p> <p style="text-align: center;">List on 21.02.2022.</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
Court No.1 (E. Court)

O.A. No. 51 of 2021 with M.A. No. 805 of 2021

Ex. Nb. Sub. (ACP) Vishun Dayal
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>21.01.2022</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. 805 of 2021</u></p> <p>Heard Shri K.P. Datta, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents.</p> <p>By means of this application the applicant intends to amend the prayer clause of the Original Application.</p> <p>We have gone through the proposed amendment and find that if we allow the amendments nature of the Original Application could not be changed, therefore, amendment application is allowed.</p> <p>Let amendments be incorporated within a week.</p> <p>Thereafter, Supplementary Counter Affidavit, if any, be filed within two weeks.</p> <p>List on 11.03.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 227 of 2021 with M.A. No. 950 of 2021

Ex. Sep. Ravendra 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>21.01.2022</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. 950 of 2021</u></p> <p style="text-align: justify;">Heard Shri Dwijendra Mishra, Ld. Counsel for the applicant and Dr. S.N. Pandey, Ld. Counsel for the respondents.</p> <p style="text-align: justify;">By means of this application applicant has sought leave to amend prayer clause of the Original Application by seeking quashing of Court of Inquiry proceedings dated 17.10.2007. He has stated that he came to know about Court of Inquiry proceedings during the course of this Original Application when copy of Counter Affidavit served to him.</p> <p style="text-align: justify;">Ld. Counsel for the respondents seeks and is allowed two weeks time to file objection.</p> <p style="text-align: center;">List on 15.03.2022.</p> <p style="text-align: justify;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: justify;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 327 of 2021

Smt. Kanti Devi W/o Late Ex. Hav. Suresh 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>21.01.2022</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;">Heard Shri Yashpal Singh, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Ld. Counsel for the applicant submits that applicant does not intend to file Rejoinder Affidavit.</p> <p style="text-align: center;">List on 08.02.2022 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
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 386 of 2021

Cpl. Chandan Yadav
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>21.01.2022</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">Heard Shri Ravi Kumar Yadav, Ld. Counsel for the applicant and Shri Kaushik Chatterjee, Ld. Counsel for the respondents.</p> <p style="text-align:center">Shri Kaushik Chatterjee, Ld. Counsel appearing on behalf of respondents submits that Counter Affidavit is ready with him and will be filed in registry today during the course of the day.</p> <p style="text-align:center">Soft copy of the Counter Affidavit has been received by Shri Ravi Kumar Yadav, Ld. Counsel appearing on behalf of the applicant.</p> <p style="text-align:center">Applicant may file Rejoinder Affidavit, if any, within two weeks.</p> <p style="text-align:center">List on 23.02.2022.</p> <p style="text-align:center">Registry is directed to reflect the name of Shri Ravi Kumar Yadav, as Counsel for the applicant when the case is listed next.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

O.A. No. 421 of 2021

Ex. Gnr. (DMT) Bajrang Singh Parihar
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>21.01.2022</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 Ravi Kumar Yadav, Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondents are present.</p> <p>Counter Affidavit has been filed by Shri Sunil Sharma, Ld. Counsel for the respondents and the same is taken on record.</p> <p>A soft copy of the Counter Affidavit has been received by Shri Ravi Kumar Yadav, Ld. Counsel appearing on behalf of the applicant and he seeks and is allowed three weeks time to file Rejoinder Affidavit.</p> <p>List on 23.02.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

Reserved

E- Court No.1

O.A. No 343 of 2020

Hony Nb Sub Dhani Ram
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>21.01.2022</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>Order pronounced today in the open Court. O.A. No. 343 of 2020, Hony Nb Sub Dhani Ram, vs. Union of India and others is dismissed. 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) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 560 of 2021 with M.A. No 997 of 2021

Ex MWO (HFO) Sarwan Kumar Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>21.01.2022</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 Ajit Singh Gaherwar and Shri SN Singh Gaherwar, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents.</p> <p style="text-align: justify;">By means of this amendment application, the applicant wants to correct the name in O.A. as well as in the prayer clause. Proposed amendment will not change the name of the case, therefore, amendment application is allowed.</p> <p style="text-align: justify;">Let amendment be incorporated within a week. Thereafter, respondents to file counter affidavit within four weeks.</p> <p style="text-align: center;">List on 21.03.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 796 of 2021

Chandravati Devi, W/o Late Ex Hav Girraj Kishore
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>21.01.2022</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 DS Tiwari, Ld. Counsel for the applicant and Shri RC Shukla for respondents No 1 to 4 and Shri Yashpal Singh, Ld. Counsel for the respondents No 5 are present.</p> <p>Shri Yashpal Singh submits that three weeks further time be granted to file counter affidavit which is allowed. It is also clarified that if the counter affidavit is not filed within the time given, opportunity to file the same shall be closed.</p> <p style="text-align: center;">List on 28.02.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 265 of 2014

Abhishek 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>21.01.2022</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 TN Tiwari, Ld. Counsel for the applicant and Shri RC Shukla, Ld. Counsel for the respondents are present.</p> <p>Matter needs physical hearing.</p> <p>List on 29.03.2022 for physical hearing.</p> <p>On the date fixed, learned counsel for the respondents shall produce original documents pertaining to case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 145 of 2019

Bhagwan 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>21.01.2022</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 Vinay Pandey, Ld. Counsel for the applicant and Dr. Chet Narayan Singh, Ld. Counsel for the respondents assisted by Maj Tarun Pillai, Departmental Representative for the respondents.</p> <p>The instant O.A. was filed by the applicant for grant of arrears of difference in pension on account of increase in 4th, 05th, 6th and 7 Pay Commission including OROP.</p> <p>EME Record has intimated vide his signal dated 13 Jan 2022 that service pension of the applicant has already been revised as per PCDA (P) Allahabad Circular No 631 dated 06 Mar 2020 and Arrears of Rs 83,190/- has also been paid to the applicant. EME Record has submitted that amount due to the applicant has been paid as per entitlement.</p> <p>Since, amount due to the applicant has been paid and applicant is getting pension as per entitlement, this applicant has become infructuous.</p> <p>The O.A. is disposed of being infructuous.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 136 of 2020

Ex Sub Minhaz Asgar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>21.01.2022</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 Amit Jaiswal, Ld. Counsel for the respondents is present.</p> <p style="text-align:center">Shri Prabhat Kumar Tripathi, learned counsel for the applicant is reported to be sick. He has given application for adjournment of the case which is allowed.</p> <p style="text-align:center">List on 14.02.2022.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 213 of 2020 with M.A. No 2337 of 2017

Capt Ramdeo Singh (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>21.01.2022</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 SG Singh, Mohd Shariq Khan and Shri Anand Yadav, Ld. Counsel for the applicant and Shri Anurag Mishra, Ld. Counsel for the respondents are present.</p> <p>Supplementary affidavit and counter affidavit filed by the respective counsels are taken on record.</p> <p>Learned counsel for the applicant seeks and is granted two weeks time to file rejoinder affidavit.</p> <p>List on 24.02.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 714 of 2020

Ex Nk Devendra 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>21.01.2022</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 holding brief of Shri R Chandra, Ld. Counsel for the applicant and Ms. Deepti P Bajpai, Ld. Counsel for the respondents are present.</p> <p>Shri Yashpal Singh prays for adjournment of the case on the ground that counsel for the applicant is out of station. In the interest of justice, the case is adjourned.</p> <p style="text-align: center;">List on 15.03.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. 759 of 2020

Prashant 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>21.01.2022</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 Yashpal Singh, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Learned counsel for the applicant prays for and is granted two weeks further time to file rejoinder affidavit.</p> <p style="text-align: center;">List on 23.02.2022.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 10px;"><div style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</div><div style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</div></div> <p>UKT/-</p>

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

O.A. No 775 of 2020

Sub (STA) Arvind Kumar Thakur **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>21.01.2022</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 Col AK Srivastava (Retd), Ld. Counsel for the applicant and Shri Amit Jaiswal, learned counsel for respondents No 1 to 4 and Shri Shailendra Kumar Singh, Ld. Counsel for respondents No 5 are present.</p> <p>Rejoinder affidavit filed by the applicant is taken on record.</p> <p>List on 02.03.2022.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 84 of 2021

Smt Sonali @ Soni Wife of (Late)
Gnr Rathod Yogesh Prahlad
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>21.01.2022</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;">Heard Shri Ashok Kumar, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents.</p> <p style="text-align: center;">As per Arty Records letter dated 30 May 2019, copy of which has been filed as Annexure R-2 alongwith the counter affidavit, Directorate General of Artillery Army Headquarters was requested to regularise the absence period of late Gnr (GD) Rathor Yogesh Prahlad as per Ministry of Defence letter dated 14 August 2001 as amended vide letter dated 24 Sep 2001. However, it is not disclosed in the counter affidavit that what happened in the matter.</p> <p style="text-align: center;">Respondents are, therefore, directed to seek instructions in this regard within two weeks and apprise to this Tribunal.</p> <p style="text-align: center;">List on 24.02.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 404 of 2021

Ex Gentleman Cadet (GC) Anshuman Rawat 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>21.01.2022</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 Lalit Kumar and Dr Ashish Asthana, Ld. Counsel for the applicant and Shri Rajesh Shukla, Ld. Counsel for the respondents are present.</p> <p>As prayed by learned counsel for the respondents, two weeks further time is granted to file counter affidavit on the condition that if the same is not filed within the given time, the opportunity to file the same shall be closed.</p> <p>List on 28.02.2022.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. (A) 197 of 2015

Ex LAC Shubham Yadav
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>21.01.2022</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 Ms. Deepti P Bajpai, Ld. Counsel for the respondents are present.</p> <p>Matter needs physical hearing.</p> <p>List on 07.04.2022 for physical hearing.</p> <p>On the date fixed, learned counsel for the respondents shall produce original documents pertaining to case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

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...
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>21.01.2022</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 , Ld. Counsel for the applicant and Shri , Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on for orders.</p> <table border="0" style="width: 100%;"><tr><td style="text-align: center; width: 50%;">(Vice Admiral Abhay Raghunath Karve) Member (A)</td><td style="text-align: center; width: 50%;">(Justice Umesh Chandra Srivastava) Member (J)</td></tr></table> <p>UKT/-</p>	(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)
(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)		

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

O.A. No. 835 of 2021

Ex Sep Raj Nath Tiwari
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>21.01.2022</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. Memo of appearance filed by Mrs. Deepti P Bajpai, Advocate on behalf of the respondents today in the Court is taken on record.</p> <p>2. Heard Shri Shashwat Shukla, Ld. Counsel for the applicant and Mrs. Deepti P Bajpai, Ld. Counsel for the respondents.</p> <p>3. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-</p> <p style="padding-left: 40px;">“(i) To set aside the impugned order dated 21st Oct. 2021 passed by the respondent No. 1 & 3 along with the order dated 14th Nov. 2018 passed by the respondent No. 2 whereby the applicant is not entitled for Constant Attendance Allowance (CAA) as per Court's order and Govt. sanction and direct respondent authorities to pay the CAA from date of discharge as recommended by Medical Board along with all arrears with interest till date.</p> <p style="padding-left: 40px;">(ii) To direct the respondent authorities to pay the CAA and its arrears with interest as per rules/amended rules//circulars/notifications as provided by the Govt. of India, Ministry of Defence from time to time.</p> <p style="padding-left: 40px;">(iii) To pass orders which their Lordships may deem fit and proper in the existing facts and circumstances of the case.</p> <p style="padding-left: 40px;">(iv) Allow this application with cost.”</p> <p>4. The facts of the case, in brief, are that the applicant was enrolled in the Indian Army on 02.11.1975 and was invalided out of service on 19.03.1988 due to disability “FRACTURE DV-4, DV-5 WITH PARAPLEGIA (OPTD)” and the disability was assessed @ 100% for life. The disability pension claim of the applicant was rejected by PCDA on the ground that his disability was neither attributable to nor aggravated by military service. The applicant filed a case before the Hon'ble High Court of Allahabad which was transferred to this Tribunal and was registered as TA No. 27 of 2012. The petition of the applicant</p>

was allowed vide order dated 29.10.2015. The operative portion of the order reads as under :-

“22. Thus in the result, the Transferred Application succeeds and is allowed. The impugned orders dated 01.02.1989, and 26.08.1993 passed by the Respondents are set aside. The petitioner is entitled to disability pension @ 100% for life from the date of discharge as recommended by Medical Board. The Respondents are directed to pay arrears of aforesaid disability pension alongwith interest @ 9% per annum from the date of discharge till the date of payment. The Respondents are further directed to comply with the order within three months from the date of production of a certified copy of this order.”

5. Learned Counsel for the applicant submitted that the applicant was not aware about payment of Constant Attendance Allowance (CAA) and later on when it came to his notice, he submitted a representation dated 09.10.2018 to PCDA (P) Allahabad but the same was rejected. Thereafter, applicant approached AMC Records for payment of CAA but nothing has been done by AMC Records. He also submitted that Specialist Surgeon vide his opinion and summary dated 17.12.1988 has also mentioned in his medical report that constant attendance is required to the applicant. This Tribunal has granted 100% disability pension to the applicant vide its order dated 29.10.2015. Therefore, applicant is entitled for CAA and he should be paid as per rules/policy.

6. On the other hand, learned counsel for the respondents opposed grant of Constant Attendance Allowance to the applicant stating that neither there was any such order passed by this Tribunal in TA No. 27 of 2012 nor there was any Govt. sanction in this regard. Therefore, applicant is not entitled for CAA. She submitted that the instant Original Application does not have any merit and the same is to be dismissed.

7. Having heard submissions of both the parties and perusing the records and order passed by this Tribunal in TA No. 27 of 2012, we have decided to dispose off the case at admission stage itself.

8. We observe that applicant was 100% disable and therefore, 100% disability pension has been granted to the applicant. Since the applicant is in receipt of 100% disability pension, therefore, the pensioners who are drawing disability pension for 100% disability and are completely dependent on others for day to day activities, shall also be granted in addition to disability pension, the Constant Attendance Allowance in accordance with the rules/instructions issued by the Govt. from time to time. As per para 35(a) of the Amendment to Chapter VI & VII of Guide to Medical Officers (Military Pension) 2002, Govt. of India, Ministry of Defence letter No. 1(2) 2013-D (Pen/Pol) dated 27.04.2015 and PCDA (P) Allahabad Circular No. 543 dated 27.05.2015, applicant is entitled to Constant Attendance Allowance.

9. Resultantly, the O.A. deserves to be allowed, hence allowed. The impugned orders passed by the respondents are set aside. While the disability pension @100% has already being granted to the applicant from the date of his discharge from service, the Constant Attendance Allowance is also granted from the date of discharge from service. However, due to law of limitations settled by the Hon'ble Supreme Court in the case of *Shiv Dass v. Union of India and others* (2007 (3) SLR 445), the arrear of Constant Attendance Allowance will be restricted to three years preceding the date of filing of the instant O.A. The date of filing of this O.A is 10.12.2021. The respondents are directed to give effect to this order within four months from the date of receipt of a copy of this order. Default will invite interest @ 8% per annum till actual payment.

10. No order as to costs.

11. Pending Misc. Application(s), if any, shall be treated to have been disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB