









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

**Ex. A No. 42 of 2022 Inre O.A. No. 515 of 2019**

<b>Ex. Rect. Vishal Singh</b> By Legal Practitioner for the Applicant	Applicant
<b>Versus</b>	
<b>Union of India &amp; Others</b> By Legal Practitioner for Respondents	Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>28.02.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p style="text-align: center;">Memo of Appearance filed by Shri Rajiv Pandey, Advocate on behalf of the respondents is taken on record.</p> <p style="text-align: center;">Heard Shri Vinay Pandey, Advocate holding brief of Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Rajiv Pandey, Ld. Counsel for the respondents.</p> <p style="text-align: center;">It is a fresh Execution Application.</p> <p style="text-align: center;">Ld. Counsel for the respondents seeks and is allowed three weeks time to seek instruction.</p> <p style="text-align: center;">List on <b>05.05.2022</b>.</p> <p style="text-align: center;"><b>(Vice Admiral Abhay Raghunath Karve)</b> Member (A)                      <b>(Justice Umesh Chandra Srivastava)</b> 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.2 of 2022 Inre O.A. No. 695 of 2020**

**Col. Sanjeev Agnihotri**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>28.02.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p style="text-align: center;">Heard Shri Gyanendra Kumar Pandey, Ld. Counsel for the applicant and Shri Rajiv Narayan Pandey, Ld. Counsel for the respondents</p> <p style="text-align: center;">As prayed by the Ld. Counsel for the respondents, four weeks further time is granted to file affidavit of compliance.</p> <p style="text-align: center;">Registry is directed to print the name of Shri Rajiv Narayan Pandey, as Counsel for the respondents in place of Shri Rang Nath Pandey when the case is listed next.</p> <p style="text-align: center;">List on <b>26.04.2022</b>.</p> <p style="text-align: center;"><b>(Vice Admiral Abhay Raghunath Karve)</b> Member (A)</p> <p style="text-align: center;"><b>(Justice Umesh Chandra Srivastava)</b> 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/15 of 2022 Inre O.A. No. 525 of 2021**

**Nk (Musician) Kishan Kumar**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>28.02.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>1. Heard Shri Rohit Kumar, Ld. Counsel for the applicant and Shri Kaushik Chatterjee, Ld. Counsel for the respondents.</p> <p>2. This Tribunal, vide its order dated 01.10.2021 in O.A. No. 525 of 2021, Nk (Musician) Kishan Kumar vs Chief of Army Staff &amp; Ors, has while disposing off the O.A. directed the respondents to treat the original application as statutory complaint and decide the same within a period of six weeks from the date of receipt of copy of original application by a speaking and reasoned order under intimation to the applicant. When the statutory complaint was not decided within the given time an execution application for execution of order dated 01.10.2021 was filed on 27.01.2022 wherein vide order dated 01.02.2022 the respondents were asked to decide the statutory complaint preferred by the applicant within two weeks from the date of order. It was also provided in the order that if statutory complaint is not decided within the given time of two weeks the officer responsible for the implementation of the order shall file his personal affidavit stating the reasons for non-compliance of the order. Despite the same, neither the order has been complied with nor personal affidavit of the officer responsible for implementation of the order has been filed rather a request has been made today to grant two weeks further time to decide the statutory complaint.</p> <p>3. Learned counsel for the applicant submits that respondents are deliberately not deciding the statutory complaint preferred by the applicant with a view to promote someone who is junior to him to the post of Havildar in Army Medical Corps in musician trade. He further submits that meeting of Departmental Promotion Committee has already been held in the matter and also result is likely to be declassified very soon.</p> <p>4. We are told by the Legal Cell during course of hearing that Director PS2, Directorate of Personal Services, AG's Branch, IHQ of MoD (Army), New Delhi is the officer responsible for implementation of the order.</p>

5. In the circumstances, we find that respondents have failed to assign any reason why order has not been complied with. We, therefore, direct Director PS2, Directorate of Personal Services, AG's Branch, IHQ of MoD (Army), New Delhi to remain present in Tribunal in person on the next date fixed to explain why coercive measure be not taken against him for non compliance of the order. In the meantime respondents shall not promote any person junior to the post of Havildar in Army Medical Corps in Musician Trade, which includes those empanelled for promotion in the DPC ibid (para 3).

6. This order shall be communicated to the all concerned by the learned counsel of the respondents. A copy of order may be provided to Legal Cell also to ensure compliance.

7. List on **21.04.2022**.

**(Vice Admiral Abhay Raghunath Karve)**  
Member (A)

**(Justice Umesh Chandra Srivastava)**  
Member (J)

rathore



























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

**O.A. No. 2 of 2022**

**Hav. Adesh Kumar**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>28.02.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p style="text-align: center;">On the case being taken up for hearing Shri Virat Anand Singh, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on <b>08.03.2022</b>.</p> <p style="text-align: center;"><b>(Vice Admiral Abhay Raghunath Karve)</b>      <b>(Justice Umesh Chandra Srivastava)</b> <b>Member (A)</b>    <b>Member (J)</b></p> <p>rathore</p>

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

**O.A. No.41 of 2022 with M.A. No. 60 of 2022**

**Ex. Sgt Ravi Datta Shukla**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>28.02.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>1. Heard Shri Rama Kant, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents.</p> <p style="text-align: center;"><b><u>M.A. No. 60 of 2022</u></b></p> <p>2. This is an application for condonation of delay in filing original application.</p> <p>3. As per office record, there is a delay of 17 years, 01 month and 13 days in filing original application.</p> <p>4. Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but on account of reasons stated in affidavit filed in support of application.</p> <p>5. Per contra, learned counsel for the respondents submits that cause shown by the applicant is not sufficient.</p> <p>6. Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>7. Accordingly, delay in filing of application is condoned. Application stands decided accordingly.</p> <p>8. Let the O.A. be registered.</p> <p style="text-align: center;"><b><u>O.A. No. 41 of 2022</u></b></p> <p>9. This is an application for issuing direction to the respondents to conduct Re-survey Medical Board (RSMB) of the applicant and to grant disability pension.</p> <p>10. Brief facts of the case are that the applicant was enrolled in the Indian Air Force (IAF) on 02.07.1980 and while in service he suffered from 'Lt Partial Seizure with Secondary Generalization'. He was discharged from service on</p>

31.07.2000 (AN) after completion of terms of engagement. Prior to discharge from service, his Release Medical Board (RMB) was conducted which assessed his medical disability @ 20% for two years neither attributable to nor aggravated by military service (NANA). Against non grant of disability element of pension applicant filed O.A. No. 1115 of 2017 in AFT, Principal Bench, New Delhi which was allowed vide order dated 03.09.2019. Accordingly, the applicant was granted disability element of pension for two years. He had also made an application being M.A. No. 112 of 2021 in AFT, Principal Bench, New Delhi but the same was dismissed as withdrawn vide order dated 30.09.2021. Thereafter, applicant had made a request to the respondents to hold RSMB in this matter which was declined vide order dated 02.07.2021. Being aggrieved, applicant has filed this O.A. for holding his RSMB.

11. In the instant case no counter affidavit has been filed. We proceed to decide the O.A. in terms of order dated 03.09.2021 and 02.07.2021.

12. We have heard learned counsel for the parties and perused the material placed on record.

13. The applicant was granted disability element of pension for two years vide order dated 03.09.2021 and while allowing the O.A., the Hon'ble AFT, Principal Bench, New Delhi made no reference to RSMB and whether the same was to be carried out on applicant, which led to filing of the present O.A.

14. We are clear that applicant is entitled to undergo RSMB to decide his future disability percentage. Therefore, with the consent of learned counsel for the parties, we direct the respondents to hold applicant's RSMB within a period of two months after receipt of a certified copy of this order to decide his future entitlement of disability pension, if any.

15. With the aforesaid observation, the O.A. is disposed off finally.

16. No order as to costs.

17. Pending miscellaneous application(s), if any, stand disposed of.

**(Vice Admiral Abhay Raghunath Karve)**  
Member (A)

**(Justice Umesh Chandra Srivastava)**  
Member (J)

rathore

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

**O.A. No. 72 of 2022 with M.A. No. 213 of 2022 & M.A. No. 99 of 2022**

**Smt. Suman Sambhaji Gavale**  
**W/o Ex. Hav. GS Jaganath Gavale**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>28.02.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p style="text-align: center;"><b><u>M.A. No. 213 of 2022</u></b></p> <p>By means of this application applicant wants to amend relief clause in the O.A.</p> <p>The instant O.A. has been filed for grant of family pension and the proposed amendment, if allowed, will not change the nature of application. In the result application is allowed.</p> <p>Amendment application is disposed off.</p> <p>Let amendment be incorporated within a week.</p> <p>Thereafter, respondents may file counter affidavit within four weeks.</p> <p style="text-align: center;"><b><u>M.A. No. 99 of 2022</u></b></p> <p>Heard Shri Ashok Kumar, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents.</p> <p>Applicant has filed this application for grant of family pension after setting aside the order of dismissal of her husband dated....There is a delay of 21 years, 04 months and 17 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but on account of reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that cause shown by the applicant is not sufficient.</p> <p>Upon hearing submissions of learned counsel for both the sides we find that bar of limirtation is not applicable in pensionary matters. We further find that delay has been properly explained and cause shown are sufficient.</p> <p>Accordingly, delay in filing of application is condoned. Application stands decided accordingly.</p> <p>Let Original Application be registered.</p>

**O.A. No. 72 of 2022**

It is a fit case for adjudication.

Admit.

Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.

List this case on **28.04.2022** for hearing.

**(Vice Admiral Abhay Raghunath Karve)**  
Member (A)

**(Justice Umesh Chandra Srivastava)**  
Member (J)

rathore













