

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (Sl. No. 5)

Ex. A. No. 239 of 2022 Inre : O.A. No. 618 of 2021

Ex. Hav. Sanjai Yadav Applicant
By Legal Practitioner for the Applicant : Shri V.P. Pandey, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Devesh Kumar, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. Heard Shri V.P. Pandey, Ld. Counsel for the applicant and Shri Devesh Kumar, Ld. Counsel for the respondents assisted by Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj.</p> <p>2. Colonel Jagjot Singh, Director, PS-4 (Pension & Legal), Defence Office Complex, KG Marg, Integrated Headquarters of Ministry of Defence (Army), New Delhi is present in court in person and files his personal affidavit which is taken on record.</p> <p>3. Colonel Jagjot Singh states that in regard to compliance of the order dated 9th March 2022 of this Tribunal in Original Application No. 618 of 2021, titled <i>Ex Hav. Sanjai Yadav Vs Union of India & Others</i>, granting disability element of pension to the applicant @30% to be rounded off to 50% from the next date of discharge i.e. 01.06.2021 for life, legal opinion was sought and received in favour of implementing the order. Thereafter, matter was sent to the office of Principal Integrated Financial Advisor for financial concurrence for the issue of Government Sanction which is still awaited. The case file for the grant of financial concurrence to the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi was sent on 08 July 2022 but the same was returned to his office with some observations on 13 September 2022. File was resubmitted to the office of PIFA on 27 September 2022 but again it was returned on 07 December 2022 with some observations. The file was submitted third time to the office of PIFA on 12 January 2023 and it was again returned without concurrence on 16 February 2023. Fourth time the file was submitted on 02 March 2023 but this time again returned with some observations on 21 March 2023. Now the file has been submitted fifth time on 10 April 2023 but nothing has been received till date. He also states that in</p>

hundreds of similar cases, of which eight or nine cases are listed today in this Bench wherein he has been asked to appear in person to explain reasons of non compliance of the order, are pending with the office of Principal Integrated Financial Advisor since long for financial concurrence and fillies are being returned with observations despite clearance of implementation by legal advisor.

4. Colonel Singh further states that in view of para 6 of MoD letter 3(1)/2017 /D/Pen/Pol dated 14th December 2021 Government Sanction for implementation of the order can be accorded by the competent authority i.e undersigned after financial concurrence of the PIFA only. Copy of the above letter is filed as Annexure IV to the affidavit he has filed today.

5. From the above it is crystal clear that PIFA whose financial concurrence is necessary for the issue of Government Sanction for the implementation of the order is unnecessarily sitting over the order and is not granting financial concurrence for one or the other reason for the reasons best known to her. The act of the PIFA not granting financial concurrence knowing well that despite legal opinion being in favour of the implementation of the order it can't be implemented without her concurrence is a clear case of abuse of power amounting interruption or disturbance in the proceedings of this Tribunal punishable with imprisonment for a term which may extend to three years under section 19(1) of the Armed Forces Tribunal Act, 2007.

6. Therefore, registry of this Tribunal is directed to issue notice to the Principal Integrated Financial Advisor (Q & M), Sena Bhawan, New Delhi through Defence Secretary, Ministry of Defence, Government of India, New Delhi to appear in person in this Tribunal on the next date fixed to show cause why contempt proceedings be not initiated against her under section 19(1) of the Armed Forces Tribunal Act, 2007 for intentionally delaying the implementation of the order passed by this Tribunal which has attained finality.

7. List on **19.07.2023**.

(Vice Admiral Atul Kumar Jain)
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 (Sl. No. 3)

Ex. A. No. 212 of 2022 Inre : O.A. No. 639 of 2021

Ex. Hav. Ram Autar Applicant
By Legal Practitioner for the Applicant : Shri Ravi Kumar Yadav, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Devesh Kumar Mishra, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Ravi Kumar Yadav, Ld. Counsel for the applicant and Shri Devesh Kumar Mishra, Ld. Counsel for the respondents are present.</p> <p>2. Order dated 04.01.2022 has not yet been complied with nor the cost is deposited.</p> <p>3. Shri Devesh Kumar Mishra, Ld. Counsel for the respondents submits that respondents intend to file Appeal against the impugned order for which a draft Appeal has been prepared and sent to the AFT Legal Cell, Supreme Court and Appeal is expected to be filed soon. He has prayed time to bring stay order from the Hon'ble Apex Court after filing Appeal.</p> <p>4. Keeping in view that order has not been yet been implemented nor Appeal is filed, only a draft Appeal to said to have been prepared and sent to AFT Legal Cell, Supreme Court, we do not find any valid reason to grant further time to the respondents to bring stay order after filing Appeal. Therefore, the prayer in this regard is turned down.</p> <p>5. Registry is directed to issue notice to Director, Infantry – 9, Infantry Directorate, Integrated Headquarters of Ministry of Defence (Army), New Delhi-110011 to appear in Tribunal on the next date fixed to explain why necessary action be not taken against him for non-compliance.</p> <p>6. List on 21.07.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 4)

Ex. A. No. 231 of 2022 Inre : T.A. No. 6 of 2021

Ex. Sgt. Somdatt Awasthi Applicant
By Legal Practitioner for the Applicant : Shri Shailendra Kumar Singh, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Ms. Appoli Srivastava, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Ms. Appoli Srivastava, Ld. Counsel for the respondents are present.</p> <p>2. Submission of Ld. Counsel for the respondents is that case file of the applicant has already been sent to the PCDA (Air Force) for issuance of PPO. A letter in this regard has been sent to the PCDA (Air Force), R.K. Puram, New Delhi on 10.03.2023.</p> <p>3. In the circumstances four weeks further time is granted to make compliance of the order and file affidavit of compliance annexing therewith copy of PPO failing which PCDA (Air Force), R.K. Puram, New Delhi shall file his personal affidavit stating the reasons for non-compliance of the order.</p> <p>4. List on 05.07.2023.</p> <p>5. Let copy of this order be provided to the Ld. Counsel for the respondents/Representative of Air Force.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 6)

Ex. A. No. 278 of 2022 Inre : O.A. No. 646 of 2021

Ex. Rect. Sudhakar Singh Applicant
By Legal Practitioner for the Applicant : Col. Ashok Kumar (Retd.), Advocate
Shri Rohit Kumar, Advocate

Versus

Chief of Army Staff & Others Respondents
By Legal Practitioner for Respondents : Ms. Anju Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents are present.</p> <p>2. Nb. Sub. Rohit Thapa, Signals Records, Jabalpur is also present.</p> <p>3. An affidavit has been filed by Capt. Brijesh Kumar on behalf of the respondents seeking exemption of personal appearance of Director, PS-4, Integrated Headquarters of Ministry of Defence (Army), New Delhi. However, Colonel Jagjot Singh, Director, PS-4 (Pension and Legal), Defence Office Complex, KG Marg, Integrated Headquarters of Ministry of Defence (Army), New Delhi is present in Court and he submits that case file of the applicant has been submitted to the Ministry of Defence, New Delhi for conditional Government Sanction and it is to be received soon.</p> <p>4. In the circumstances, four weeks further time is granted to file affidavit of compliance.</p> <p>5. List on 19.07.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

Form No. 4
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ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1 (Sl. No. 7)

Ex. A. No. 322 of 2022 Inre : O.A. No. 827 of 2021

Ex. Nb. Sub. Sheo Khelawan

Applicant

By Legal Practitioner for the Applicant : Shri Dharam Raj Singh, Advocate

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents : Shri Bipin Kumar Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Dharam Raj Singh, Ld. Counsel for the applicant and Shri Bipin Kumar Singh, Ld. Counsel for the respondents are present.</p> <p>2. An affidavit has been filed from the side of respondents seeking exemption from appearance of Director, PS-4, Integrated Headquarters of Ministry of Defence, New Delhi. However, Colonel Jaggot Singh, Director, PS-4 (Pension and Legal), Defence Office Complex, KG Marg, Integrated Headquarters of Ministry of Defence (Army), New Delhi is present in Court in person and he states that case file of the applicant is pending with Principal Integrated Financial Headquarters, Army Headquarters, New Delhi for financial concurrence. He further submits that case file of the applicant was firstly sent to the Principal Integrated Financial Headquarters, Army Headquarters, New Delhi on 26.12.2022 and received back in his office on 03.05.2023 with some observations. Now the file has again been re-submitted to the office of Principal Integrated Financial Headquarters, Army Headquarters, New Delhi on 04.05.2023.</p> <p>3. In the circumstances four weeks further time is granted for making compliance of the order. It is directed that if financial concurrence is not granted by the Principal Integrated Financial Advisor, Army Headquarters, New Delhi within the given time she will appear in person before this Tribunal on the next date fixed to explain the reasons for not granting financial concurrence and also why necessary action be not taken against her.</p> <p>4. List on 19.07.2023.</p> <p>5. 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 Atul Kumar Jain) 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 (Sl. No. 8)

Ex. A. No. 324 of 2022 Inre : O.A. No. 793 of 2021

Ex. Sub. Pyar Chand Applicant
By Legal Practitioner for the Applicant : Shri K.P. Datta, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Ms. Anju Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri K.P. Datta, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents are present.</p> <p>2. Colonel Jagjot Singh, Director, PS-4 (Pension and Legal), Defence Office Complex, KG Marg, Integrated Headquarters of Ministry of Defence (Army), New Delhi is present in Court in person and he states that case file of the applicant is pending in the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi for financial concurrence. He further submits that case file of the applicant was sent to the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi for the first time on 16.08.2022 and was received back to his office on 14.10.2022 with some observations. Thereafter, the file was re-submitted on 18.11.2022 and again received back with observations on 12.04.2023. Now the file has been re-submitted to the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi for the third time on 09.05.2023.</p> <p>3. In the circumstances four weeks further time is granted for making compliance of the order. It is directed that if financial concurrence is not granted by the Principal Integrated Financial Advisor, Army Headquarters, New Delhi within the given time she will appear in person before this Tribunal on the next date fixed to explain the reasons for not granting financial concurrence and also why necessary action be not taken against her.</p> <p>4. List on 19.07.2023.</p> <p>5. 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 Atul Kumar Jain) (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

Court No. 1 (Sl. No. 9)

Ex. A. No. 355 of 2022 Inre : O.A. No. 864 of 2021

Ex. Hav. Tekawade Santosh Bapurao

Applicant

By Legal Practitioner for the Applicant : Shri K.K. Singh Bisht, Advocate

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents : Shri Manu Kumar Srivastava, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri K.K. Singh Bisht, Ld. Counsel for the applicant and Shri Manu Kumar Srivastava, Ld. Counsel for the respondents are present.</p> <p>2. Colonel Jagjot Singh, Director, PS-4 (Pension and Legal), Defence Office Complex, KG Marg, Integrated Headquarters of Ministry of Defence (Army), New Delhi is present in Court in person and he states that case file of the applicant is pending in the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi for financial concurrence. He further submits that case file of the applicant was sent to the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi for the first time on 23.09.2022 and was received back to his office on 11.11.2022 with some observations. Thereafter, the file was re-submitted on 09.12.2022 and again received back without concurrence on 19.04.2023. Now the file has been re-submitted to the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi for the third time on 04.05.2023.</p> <p>3. In the circumstances four weeks further time is granted for making compliance of the order. It is directed that if financial concurrence is not granted by the Principal Integrated Financial Advisor, Army Headquarters, New Delhi within the given time she will appear in person before this Tribunal on the next date fixed to explain the reasons for not granting financial concurrence and also why necessary action be not taken against her.</p> <p>4. List on 19.07.2023.</p> <p>5. 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 Atul Kumar Jain) 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 (SI. No. 10)

Ex. A. No. 377 of 2022 Inre : O.A. No. 763 of 2021

Ex. Nb. Sub. Randhir Singh Applicant
By Legal Practitioner for the Applicant : Shri Vinay Pandey, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Ms. Anju Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Vinay Pandey, Ld. Counsel for the applicant and Ms. Anju Singh, Ld. Counsel for the respondents are present.</p> <p>2. Nb. Sub. Rohit Thapa, Signals Records, Jabalpur is also present.</p> <p>3. An affidavit has been filed from the side of respondents seeking exemption from appearance of Director, AG/PS-4, Integrated Headquarters of Ministry of Defence, New Delhi. However, Colonel Jagjot Singh, Director, PS-4 (Pension and Legal), Defence Office Complex, KG Marg, Integrated Headquarters of Ministry of Defence (Army), New Delhi is present in Court in person and he states that case file of the applicant is pending in the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi for financial concurrence. He further submits that case file of the applicant was sent to the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi for the first time on 06.01.2023 and was received back to his office on 16.02.2023 without concurrence. Now the file has been re-submitted to the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi for the third time on 02.05.2023.</p> <p>4. In the circumstances four weeks further time is granted for making compliance of the order. It is directed that if financial concurrence is not granted by the Principal Integrated Financial Advisor, Army Headquarters, New Delhi within the given time she will appear in person before this Tribunal on the next date fixed to explain the reasons for not granting financial concurrence and also why necessary action be not taken against her.</p> <p>5. List on 19.07.2023.</p> <p>6. 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 Atul Kumar Jain) (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 (Sl. No. 11)

Ex. A. No. 385 of 2022 Inre : O.A. No. 452 of 2021

Ex. Sep. Shrawan Kumar Tripathi Applicant
By Legal Practitioner for the Applicant : Shri Ashok Kumar, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri R.K.S. Chauhan, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Raj Kumar Tiwari, Advocate holding brief of Shri Ashok Kumar, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents assisted by Shri Rajeev Tiwari, Accounts Officer, Principal Controller of Defence Accounts (Pension), Prayagraj are present.</p> <p>2. Lt. Shahabuddin Khan, Record Officer, EME Records, Secunderabad is present in Court in person.</p> <p>3. Colonel Jagjot Singh, Director, PS-4 (Pension and Legal), Defence Office Complex, KG Marg, Integrated Headquarters of Ministry of Defence (Army), New Delhi is present in Court in person and he states that in compliance of the order PPO has been issued on 09.05.2023. A copy of PPO has also been produced before us for perusal.</p> <p>4. We are told that Re-Survey Medical Board (RSMB) of the applicant has also been conducted.</p> <p>5. Let copy of PPO and RSMB report be brought on record by way of affidavit within three weeks.</p> <p>6. List on 13.07.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No.12)

Ex. A. No. 23 of 2023 Inre : O.A. No. 5 of 2022

Ex. Hav. (ACP Nb. Sub.) Sanjeev Kumar Applicant
By Legal Practitioner for the Applicant : Shri Manoj Kumar Awasthi, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Arvind Kumar Pandey, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant and Shri Arvind Kumar Pandey, Ld. Counsel for the respondents are present.</p> <p>2. An affidavit has been filed on behalf of the respondents seeking exemption from personal appearance of Director, AG/PS-4, Integrated Headquarters of Ministry of Defence, New Delhi. However, Colonel Jagjot Singh, Director, PS-4 (Pension and Legal), Defence Office Complex, KG Marg, Integrated Headquarters of Ministry of Defence (Army), New Delhi is present in Court in person and he states that in regard to compliance of the order the case file of the applicant was sent to the office of Principal Integrated Financial Advisor, Army Headquarters, New Delhi for the first time on 19.01.2023 which was received back in his office on 20.04.2023. The file has been re-submitted to the Principal Integrated Financial Advisor, Army Headquarters, New Delhi on 03.05.2023.</p> <p>3. In view of the above, four weeks further time is granted to make compliance of the order. It is made clear that in the event of order being not complied with in the given time Principal Integrated Financial Advisor, Army Headquarters, New Delhi shall remain present in Tribunal on the next date fixed to explain the reasons for not granting financial concurrence and also why necessary action be not taken against her.</p> <p>4. List on 19.07.2023.</p> <p>5. 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 Atul Kumar Jain) (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 (Sl. No. 13)

O.A. No. 113 of 2022

Hav. Ck/SD Brijesh Kumar Yadav Applicant
By Legal Practitioner for the Applicant : Col. A.K. Srivastava (Retd.), Advocate
Shri Amarendu Srivastava, Advocate
Ms. Hemlata, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Sunil Sharma, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Col. A.K. Srivastava (Retd.), Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondent Nos. 1, 2 and 7 are present.</p> <p>2. Shri Sunil Sharma, Ld. Counsel appearing for the respondent Nos. 1, 2 and 7 submits that Counter Affidavit has been prepared and sent to the competent authority for obtaining his signature thereon. Thus, he seeks two weeks further time to file Counter Affidavit which is allowed.</p> <p>3. List on 11.07.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 14)

O.A. No. 819 of 2022

Lt. Col. Yashendra Pratap Singh Applicant
By Legal Practitioner for the Applicant : Shri Shailendra Kumar Singh, Advocate
Shri Mahendra Kumar Singh, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Amit Jaiswal, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Shailendra Kumar Singh and Shri Mahendra Kumar Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p>2. On the request of Shri Amit Jaiswal, Ld. Counsel appearing for the respondents a week further time is granted to file fresh Counter Affidavit. Once the fresh Counter Affidavit is filed the earlier Counter Affidavit filed by the respondents will stand withdrawn. After the Counter Affidavit is filed applicant will have two weeks time to file Rejoinder Affidavit.</p> <p>3. List on 11.07.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 15)

O.A. No. 1066 of 2022

Hony. Lt. Devi Singh Applicant
By Legal Practitioner for the Applicant : Shri Rohitash Kumar Sharma, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Dr. Shailendra Sharma Atal, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <ol style="list-style-type: none">1. Counter Affidavit filed by the respondents is taken on record.2. Supplementary Affidavit filed by the applicant is taken on record.3. Heard Shri Rohitash Kumar Sharma, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents.4. Original Application is dismissed.5. For orders, see our order passed on separate sheets.6. Misc. Application(s), pending if any, shall be treated to have been disposed of. <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 16)

O.A. No. 75 of 2023

Ex. Hav. Suresh Kumar Pandey Applicant
By Legal Practitioner for the Applicant : Shri Prabhat Kumar Upadhyay, Advocate
Shri Amit Kumar Singh, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Vishwesh Kumar, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Prabhat Kumar Upadhyay, Ld. Counsel for the applicant and Shri Vishwesh Kumar, Ld. Counsel for the respondents are present.</p> <p>2. On the request of Ld. Counsel for the respondents a week further time is granted to file Counter Affidavit as a last chance.</p> <p>3. List on 24.05.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 17)

O.A. No. 77 of 2023

Ex. Sub. Dinesh Kumar Kushwaha Applicant
By Legal Practitioner for the Applicant : Shri Amit Asthana, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Ashish Kumar Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <ol style="list-style-type: none">1. Counter Affidavit filed by the respondents is taken on record.2. Heard Shri Amit Asthana, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents.3. Original Application is dismissed.4. For orders, see our order passed on separate sheets.5. Misc. Application(s), pending if any, shall be treated to have been disposed of. <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 18)

O.A. No. 91 of 2023

Col. Vijay Narayan Shukla, VSM Applicant
By Legal Practitioner for the Applicant : Shri Veerendra Mohan, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Ms. Appoli Srivastava, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <ol style="list-style-type: none">1. On the case being taken up for hearing Shri Veerendra Mohan, Ld. Counsel for the applicant and Ms. Appoli Srivastava, Ld. Counsel for the respondent Nos. 1 and 2 are present.2. A Counter Affidavit has been filed today by the respondent Nos. 1 and 2 which is taken on record.3. Counter Affidavit on behalf of respondent Nos. 3, 6, 10, 12 and 13 have already been filed and taken on record.4. No Counter Affidavit has been filed by the remaining respondents.5. Ld. Counsel for the applicant seeks and is allowed a week time to file Rejoinder Affidavit to the Counter Affidavit filed by the respondent Nos.1 and 2.6. List on 25.05.2023.7. Respondent Nos. 1 and 2 shall produce all original documents pertaining to the case for perusal of the Bench on the next date fixed. <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 19)

O.A. No. 216 of 2023

Ex. MWO Prabhat Kumar Singh Applicant
By Legal Practitioner for the Applicant : Shri Raj Kumar Mishra, Advocate
Ms. Upasna Mishra, Advocate
Shri Gopal Dwivedi, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Ashish Kumar Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Raj Kumar Mishra, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p>2. Shri Ashish Kumar Singh, Ld. Counsel appearing for the respondents submits that Counter Affidavit has been sent for signature of the competent authority. He seeks a week further time to file Counter Affidavit which is allowed.</p> <p>3. List on 18.05.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 20)

O.A. No. 217 of 2023

Ex. WO Vinod Kumar Pathak Applicant
By Legal Practitioner for the Applicant : Shri Abhay Kant Upadhyay, Advocate
Shri Neel Kant Upadhyay, Advocate
Shri Raj Kumar Mishra, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Dr. Chet Narayan Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <ol style="list-style-type: none">1. Counter Affidavit filed by the respondents is taken on record.2. Heard Shri Raj Kumar Mishra, Ld. Counsel for the applicant and Dr. Chet Narayan Singh, Ld. Counsel for the respondents.3. Original Application is allowed.4. For orders, see our order passed on separate sheets.5. Misc. Application(s), pending if any, shall be treated to have been disposed of. <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 21)

O.A. No. 218 of 2023

Ex. Nk. Sant Ram

Applicant

By Legal Practitioner for the Applicant : Shri R. Chandra, Advocate

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents : Shri Rajiv Pandey, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Shri Rajiv Pandey, Ld. Counsel for the respondents are present.</p> <p>2. On the request of Ld. Counsel for the respondents two weeks further time is granted to file Counter Affidavit.</p> <p>3. List on 12.07.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 22)

O.A. No. 219 of 2023

Ex. Hav. Narendra Singh Applicant
By Legal Practitioner for the Applicant : Shri Vijay Kumar Pandey, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Anurag Mishra, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Shri Anurag Mishra, Ld. Counsel for the respondents are present.</p> <p>2. On the request of Ld. Counsel for the respondents two weeks further time is granted to file Counter Affidavit.</p> <p>3. List on 12.07.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 23)

O.A. No. 221 of 2023

Ex. Sub. Maj. Mithlesh Prasad Mishra Applicant
By Legal Practitioner for the Applicant : Shri Shailendra Kumar Singh, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Ashish Kumar Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p>2. On the request of Ld. Counsel for the respondents two weeks further time is granted to file Counter Affidavit.</p> <p>3. List on 12.07.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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 (Sl. No. 24)

O.A. No. 223 of 2023

Ex. JWO Ratan Mathur Applicant
By Legal Practitioner for the Applicant : Wg. Cdr. Ajit Kakkar (Retd), Advocate
Shri Manoj Kumar Awasthi, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Alok Kumar Mishra, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Manoj Kumar Singh, Ld. Counsel for the applicant and Shri Alok Kumar Mishra, Ld. Counsel for the respondents are present.</p> <p>2. On the request of Ld. Counsel for the respondents two weeks further time is granted to file Counter Affidavit.</p> <p>3. List on 12.07.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) 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
By Circular

R.A. No. 29 of 2023 with M.A. No. 642 of 2023 Inre : O.A. No. 836 of 2021

Union of India & Others Applicants
By Legal Practitioner for the Applicants : Shri Pushpendra Mishra, Advocate

Versus

Dev Bahadur Chhetri, Ex. Hav. No. 5843122N Respondent
By Legal Practitioner for Respondent : Shri Vijay Kumar Pandey, Advocate
Shri Girish Tiwari, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>10.05.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. The file has been placed before us by circulation.</p> <p><u>M.A. No. 642 of 2023</u></p> <p>2. For the reasons stated in affidavit filed in support of delay condonation application, delay of 08 days in filing of Review Application is condoned. Delay condonation application stands disposed off accordingly.</p> <p><u>R.A. No. 29 of 2023</u></p> <p>3. The Review Applicants have filed this application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 by which applicants herein have prayed for review and setting aside the judgement and order dated 23.03.2022 of this Tribunal in Original Application No.836 of 2021. The order reads as under:-</p> <p style="text-align: center;"><i>“In view of the above, the Original Application No. 836 of 2021 deserves to be allowed, hence allowed. The impugned orders, rejecting the applicant's claim for grant of disability element of disability pension, are set aside. The disability of the applicant is held as aggravated by military service. The applicant is entitled to get disability element of disability pension @20% for two years which would be rounded off to 50% for two years from the next date of his discharge. The respondents are directed to grant disability element to the applicant @20% for two years which would stand rounded off to 50% for two years from the next date of his discharge. The respondents are further directed to conduct a Re-Survey Medical Board for the applicant to assess his further entitlement of disability element of disability pension. Respondents are further directed to give effect to the order within four months from the date of receipt of a certified copy of this order failing which the respondents shall have to</i></p>

pay interest @ 8% per annum till the date of actual payment.”

4. The order of which review has been sought was passed by the Bench comprising of (Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J) and Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A) (since transferred to AFT, Regional Bench, Mumbai).

5. 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.

6. For ready reference, Order 47, Rule 1 sub-rule (1) of the Code of Civil Procedure, 1908 is reproduced below :-

“1. Application for review of judgment.- (1) any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(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.”

7. 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."

8. 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"

9. 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.

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

(Vice Admiral Atul Kumar Jain)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/-