

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

Court No. 1

Subhash Chandra
By Legal Practitioner for Applicant

Applicant

Versus

OIC, ASC Records AT & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri Virendra Kumar Gupta, learned counsel for the applicant and Dr Shailendra Sharma Atal, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p>On the basis of instructions received, Dr. Shailendra Sharma Atal, learned Standing Counsel appearing for the respondents states that in pursuance of the judgment and order under execution, necessary P.P.O has been issued on 13.06.2016.</p> <p>Shri Virendra Kumar Gupta, learned counsel for the applicant admits the receipt of P.P.O by the applicant but states that he has no instructions with respect to the payment, if any, made by the Bank to his client in pursuance of the said P.P.O. He prays for and is allowed two weeks' time to obtain instructions from his client.</p> <p>Dr. Shailendra Sharma Atal, learned Standing Counsel for the respondents is directed to file an affidavit of compliance by the next date.</p> <p>List this case for orders on 17.10.2016 before the appropriate Court having jurisdiction as per roster of that date.</p> <p style="text-align: center;">(Lt Gen Gyan Bhushan) Member (A)</p> <p style="text-align: center;">(Justice Abdul Mateen) Member (J)</p> <p>RS/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 527 of 2016 with M.A. No. 1195 & 1714 of 2016

Pan Singh
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri Parijaat Belaura, learned counsel for the applicant and Shri Virendra Kumar Singh, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p><u>M.A.No. 527 of 2016</u></p> <p>Heard learned counsel for the parties.</p> <p>The matter relates to rounding off of disability pension. The applicant, who was serving in the Army, was discharged from service in the year 2010 after completion of about 26 years of service in the Rank of Nb Subedar. The claim of the applicant is that he had prayed for rounding off of disability pension from 20% to 50% to which he is entitled, but no action has been taken by the respondents. As per office report, there is a delay of 05 years, 01 month and 02 days in filing the O.A. It is a settled principle of law, as propounded by the Hon'ble Supreme Court in the cases of Balkrishna S.P. Waghmare Vs Shree Dhyaneshwar Maharaj Sansthan (AIR 1959 SC 798), M.R. Gupta Vs Union of India (1995 (5) SCC 628) and Shiv Das Vs Union of India reported in 2007(3) SLR Page 445, that matters relating to pension are recurring cause of action; that is to say, the bar of limitation would not apply, as in case of pension the cause of action actually continues from month to month. Thus, if delay has been properly explained, the same has to be condoned depending upon the facts and circumstances of each case. We have gone through the affidavit filed in support of the application for condonation of delay. The reasons for delay given therein seem to be genuine. In the facts and circumstances of the present case, therefore, we reject the objection filed by the respondents vide M.A.No. 1195 of 2016 and allow the application M.A.No. 527 of 2016) condoning the delay in filing the O.A.</p> <p>Let the case be registered as O.A. List it for admission on 28.09.2016 before the appropriate Court having jurisdiction as per roster of that date.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>RS/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 1079 of 2016 With M.A. No. 1498 of 2016

Dhan Singh

By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri DS Tiwari, learned counsel for the applicant and Shri Sunil Sharma, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p><u>M.A.No. 1079 of 2016</u></p> <p>Heard learned counsel for the parties.</p> <p>The matter relates to rounding off of disability pension. The applicant, who was serving in the Army, was prematurely discharged from service in the year 1996. The claim of the applicant is that he had prayed for rounding off of disability pension from 20% to 50% to which he is entitled, but no action has been taken by the respondents. As per office report, there is a delay of 19 years, 11 months and 06 days in filing the O.A. It is a settled principle of law, as propounded by the Hon'ble Supreme Court in the cases of Balkrishna S.P. Waghmare Vs Shree Dhyaneshwar Maharaj Sansthan (AIR 1959 SC 798), M.R. Gupta Vs Union of India (1995 (5) SCC 628) and Shiv Das Vs Union of India reported in 2007(3) SLR Page 445, that matters relating to pension are recurring cause of action; that is to say, the bar of limitation would not apply, as in case of pension the cause of action actually continues from month to month. Thus, if delay has been properly explained, the same has to be condoned depending upon the facts and circumstances of each case. We have gone through the affidavit filed in support of the application for condonation of delay. The reasons for delay given therein seem to be genuine. In the facts and circumstances of the present case, therefore, we reject the objection (M.A.No. 1498 of 2016) filed by the respondents and allow the application (M.A.No. 1079 of 2016) condoning the delay in filing the O.A.</p> <p>Let the case be registered as O.A and list it for admission on 29.09.2016 before the appropriate Court having jurisdiction as per roster of that date.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>RS/</p>

Form No. 4

[See rule 11(1)]

ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 85 of 2014

Shyam Neeraj

By Legal Practitioner for Applicant

Applicant

Versus

Ministry of Defence

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri Amit Jaiswal, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p>On call of the case, a person in civil dress claiming himself to be applicant Shyam Neeraj appeared. He states that his counsel Shri P.K.Shukla is not well and has not come to the Court. He prays that the matter be adjourned. Accordingly the case is adjourned.</p> <p>We also notice from the order-sheet dated 05.07.2016 that as directed by this Court, the applicant has not filed amended copy of O.A and the respondents have also not filed supplementary counter affidavit in compliance of the orders of this Court passed</p> <p>. Learned counsel for the parties are directed to comply with the aforesaid order of the Court within two weeks.</p> <p>List this case for orders on 06.10.2016 before the appropriate Court having jurisdiction as per roster of that date.</p> <p style="text-align: center;">(Lt Gen Gyan Bhushan) Member (A)</p> <p style="text-align: center;">(Justice Abdul Mateen) Member (J)</p> <p>RS/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 942 of 2014 with M.A. No. 2143 of 2015, 1103 & 1671 of 2016

Hari Singh

Applicant

By Legal Practitioner for Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri R Chandra, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p>The matter pertains to dismissal. List this case for orders on 30.08.2016 before the Court concerned, dealing with dismissal matters.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>RS/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 524 of 2012 Alongwith O.A. No. 168 of 2012 (Decided)

Km Basanti

By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri VK Pandey, learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents alongwith Lt Priya Prasad and Capt Bappaditya Dey, Departmental representatives.</p> <p>As directed by this Court vide order dated 25.07.2016, applicant Km Basanti is not present in Court. Shri VK Pandey, learned counsel for the applicant prays that the case be adjourned to some other date and assures that the applicant shall be present in Court on the date fixed.</p> <p>List this case for hearing on 24.08.2016. Applicant Km Basanti shall be present in Court on the said date. Capt Bappaditya Dey, who is present in Court, shall also appear on the said date.</p> <p>Let a notice be issued to PCDA (P), Allahabad with a direction to ensure presence of officer dealing with the matter pertaining to the applicant to appear before this Court alongwith the record on the date fixed.</p> <p>The Registrar to issue notice PCDA (P), Allahabad.</p> <p style="text-align: center;">(Lt Gen Gyan Bhushan) Member (A)</p> <p style="text-align: center;">(Justice Abdul Mateen) Member (J)</p> <p>RS/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

T.A. No. 674 of 2010 With M.A. No. 1702 of 2016

Smt Kushum Lata

By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri Yashpal Singh, learned counsel for the applicant and Shri Rajiv Pandey, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p>Heard learned counsel for the parties.</p> <p>Learned Standing Counsel for the respondents shall place before the Court copy of Court of Inquiry pertaining to the husband of the applicant late Hav Virender Singh Thathola declaring him a deserter as also his viscera report. Copy of Court of Inquiry as also the outcome of inquiry ordered pertaining the husband of applicant will also be placed before the Court.</p> <p>List this case for further hearing on 26.09.2016 before the appropriate Court having jurisdiction as per roster of that date.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>RS/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 1139 of 2016

Brij Kishor Dwivedi
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri R. Chandra, learned counsel for the applicant, Shri V.P.S. Vats, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>On call of the case, Shri V.P.S. Vats, learned counsel for the respondents prays for and is granted four weeks' and no more time to file objection to the condonation of delay</p> <p>List this case for orders on 26.09.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 190 of 2013

Jai Prakash Yadav
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri V.A. Singh, learned counsel for the applicant, Shri A.N. Tripathi, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>Office report dated 03.08.2016 indicates that Rs.500/- which was ordered to be deposited as cost for restoration of original application has been deposited by learned counsel for the applicant. This case which was dismissed for non prosecution has also been restored on 26.02.2016.</p> <p>Accordingly, list this case for orders on 05.10.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 70 of 2015

Maj Sree Kumar KS
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri Virendra Kumar Singh, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>Inspite of sufficient time granted time and again to the Ld. counsel for the applicant to file Rejoinder Affidavit, but as per office report dated 12.08.2016 the same has not yet been filed.</p> <p>On call of the case, Shri D.C. Lohumi, Advocate, appears and states that Shri P.N. Chaturvedi, learned counsel for the applicant is busy in other court, as such, he prays that the matter be adjourned.</p> <p>Accordingly, the case is adjourned.</p> <p>List this case for orders on 07.10.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4

[See rule 11(1)]

ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 138 of 2010

Lal Chandra Dubey

By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri Sunil Sharma, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>On call of the case, Shri D.C. Lohumi, Advocate, appears and states that Shri P.N. Chaturvedi, learned counsel for the applicant is busy in other court and also inform the Court that Affidavit as directed on 04.05.2016 is ready, as such, he prays further a week's time to place the same on record.</p> <p>Time prayed for is granted.</p> <p>List this case for hearing on 31.08.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 266 of 2011

Chand Pati
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Vakalatname has been filed by Shri Pradeep Tiwari, in Court today, on behalf of the applicant is taken on record. His name be shown as counsel for the applicant when the case is listed next.</p> <p>Present: Shri Pradeep Tiwari, learned counsel for the applicant, and Lt. Priya Prasad, Departmental Representative.</p> <p>This case has wrongly been listed. The order for further hearing has been passed by Hon'ble Justice D.P. Singh, Member (J) and Hon'ble Air Marshal Anil Chopra, Member (A) on 13.07.2016. Matter is not tied up to this Court.</p> <p>Accordingly, list this case before court concerned for further hearing on 30.08.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]

ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 19 of 2014

Smt. Ragini Tullu Rani
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Ms. Deepti P. Bajpai, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>On call of the case, no one appears for the applicant nor there is any request to adjourn/pass over the case.</p> <p>Accordingly, the case is dismissed for non prosecution.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 27 of 2016 with M.A. 1389 of 2016

Udai Pratap Singh
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri V.P. Pandey, learned counsel for the applicant, Ms. Deepti P. Bajpai, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>Heard learned counsel for the parties at length.</p> <p>Arguments concluded. Judgment reserved.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 1149 of 2016 with M.A. No. 1766 of 2016

Harendra Kumar

Applicant

By Legal Practitioner for Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri R. Chandra, learned counsel for the applicant, Shri Amit Jaiswal, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>On call of the case, Shri R. Chandra, learned counsel for the applicant appears and states that he has received objection to the condonation of delay filed by the respondents. He, therefore, prays for and is granted two weeks' time to file replication to the objection.</p> <p>List this case for orders on 17.10.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 213 of 2016 with M.A. No. 1458 of 2016

Pratap Singh Chauhan
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Dr. Shailendra Sharma Atal, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>On call of the case, Shri O.P. Kushwaha, Advocate, appears and states that Shri Ashok Kumar, learned counsel for the applicant has not come to the Court, as such, he prays that the matter be adjourned.</p> <p>Accordingly, the case is adjourned.</p> <p>List this case for orders on 31.08.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

**O.A. No. 215 of 2015 with M.A. No. 645 of 2016
& M.A. No. 1672 of 2016**

Omkar Nath Sharma
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri R. Chandra, learned counsel for the applicant, Shri Shyam Singh, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>Counter and Rejoinder Affidavits have been exchanged. The case is ripe for hearing.</p> <p>List this case for hearing on 4.10.2016 before the Court concerned.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 352 of 2015

Dinesh Kumar Dubey

Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Lt. Priya Prasad, Departmental Representative.</p> <p>On call of the case, Shri A.K. Singh, Advocate, appears and states that Shri P.N. Chaturvedi, learned counsel for the applicant is busy in other Court, as such, he prays that the matter be adjourned.</p> <p>Accordingly, the case is adjourned.</p> <p>List this case for orders on 07.10.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 232 of 2014

Rohini Devi

Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri Shailendra Kumar Singh, learned counsel for the applicant, Shri Amit Jaiswal, learned counsel for the respondent Nos. 1 to 6 and Shri Prashant Kumar Singh, learned counsel for respondent No. 7. along with Lt. Priya Prasad, Departmental Representative.</p> <p>As prayed by Shri Shailendra Kumar Singh, learned counsel for the applicant, list this case for hearing on 17.10.2016 before Court concerned.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 211 of 2015

Bhola Dutt Singh

Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Wg. Cdr.(Retd.) A.K. Singh, learned counsel for the applicant, Shri Namit Sharma, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>As prayed by Wg. Cdr.(Retd.) A.K. Singh, learned counsel for the applicant, list this case for hearing on 19.10.2016 before Court concerned.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 243 of 2015

Babu Ram

Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri K.K. Mishra, learned counsel for the applicant, Shri Anurag Mishra, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>Heard learned counsel for the parties at length.</p> <p>Arguments concluded. Judgment reserved.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 337 of 2015 with M.A. No. 957 of 2016

Rajendra Prasad

Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri A.K. Singh, learned counsel for the applicant, Dr. Shailendra Sharma Atal, learned counsel for the respondents, along with W.O. Deshraj Singh, Departmental Representative.</p> <p>As prayed by Dr. Shailendra Sharma Atal, learned counsel for the respondents, list this case for hearing on 23.08.2016 before Court concerned.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 691 of 2016 With M.A. No. 1644 of 2016

Pramod Kumar Singh
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri R Chandra, learned counsel for the applicant and Dr Chet Narain Singh, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p>Shri R.Chandra, learned counsel for the applicant states that he has received copy of objection filed by the respondents against the application for condonation of delay (M.A.No.1644 of 2016). He prays for and is allowed two weeks' time to file replication to the same.</p> <p>List M.A.No. 1644 of 2016 for orders on 28.09.2016 before the appropriate Court having jurisdiction as per roster of that date.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>LN/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 976 of 2016-08-16
(Inre: O.A. No. Nil of 2016)

Bhaju Ram Prasad
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri VP Pandey, learned counsel for the applicant and Shri VPS Vats, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p>Shri V.P.S.Vats, learned Standing Counsel appearing for the respondents states that counter affidavit to the application for condonation of delay has though been prepared but could not be sworn in. He prays for and is allowed a week's further time to file the same.</p> <p>List this case for orders on 29.09.2016 before the appropriate Court having jurisdiction as per roster of that date.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>LN/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 1057 of 2016 With M.A. No. 1494 of 2016

Mohan Ram

By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondent s

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri Shailendra Kumar Singh, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p><u>M.A.No. 1057 of 2016</u></p> <p>This is an application for condonation of delay in filing the O.A, which relates to rounding off disability pension. As per office report, there is a delay of 02 years, 09 months and 10 days in filing the O.A. Objection to this application has been filed by the respondents vide M.A.No. 1494 of 2016.</p> <p>The case pertains to rounding off of disability pension. As per pronouncements of various Hon'ble High Courts and Apex Court, matters relating to pension are recurring cause of action; that is to say, the bar of limitation would not apply, as in case of pension the cause of action actually continues from month to month. That apart, the reasons given in the application for condonation of delay seem to be genuine.</p> <p>Accordingly, M.A.No.1057 of 2016 is allowed and delay in filing the O.A is condoned. Objection to this application filed by the respondents vide M.A.No. 1494 of 2016 is rejected. Let O.A be registered.</p> <p>Respondents are directed to file counter affidavit within six weeks. Rejoinder affidavit, if any, may be filed by the applicant within two weeks thereafter.</p> <p>List this case for admission on 20.10.2016 before the appropriate Court having jurisdiction as per roster of that date.</p> <p style="text-align: center;">(Lt Gen Gyan Bhushan) Member (A)</p> <p style="text-align: center;">(Justice Abdul Mateen) Member (J)</p> <p>LN/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 1147 of 2016 With M.A. No. 1431 of 2016

Manoj Kumar Pandey
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri R Chandra, learned counsel for the applicant and Shri Sunil Sharma, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p>Shri R.Chandra, learned counsel for the applicant states that he will be filing replication to the objection filed by the respondents against the application for condonation of delay in the Registry during the course of the day. If the same is filed, list the application for condonation of delay for orders on 27.09.2016 before the appropriate Court having jurisdiction as per roster of that date.</p> <p style="text-align: center;">(Lt Gen Gyan Bhushan) Member (A)</p> <p style="text-align: center;">(Justice Abdul Mateen) Member (J)</p> <p>LN/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 1148 of 2016 With M.A. No. 1493 & 1670 of 2016

Ajay Kumar
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>16.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri R Chandra, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p><u>M.A.No. 1148 of 2016</u></p> <p>This is an application for condonation of delay in filing the O.A, which as per office report, is delayed by 12 years, 01 month and 15 days in filing the O.A.</p> <p>We have gone through the contents of this application as well as the objection filed by the respondents against this application vide M.A.No. 1493 of 2016 and replication to the same filed by the applicant vide M.A.No. 1670 of 2016.</p> <p>The case pertains to grant of disability pension. As per pronouncements of various Hon'ble High Courts and Apex Court, matters relating to pension are recurring cause of action; that is to say, the bar of limitation would not apply, as in case of pension the cause of action actually continues from month to month. That apart, the reasons given in the application for condonation of delay seem to be genuine.</p> <p>Accordingly, M.A.No.1148 of 2016 is allowed and delay in filing the O.A is condoned. Objection to this application filed by the respondents vide M.A.No. 1493 of 2016 is rejected. Let O.A be registered.</p> <p>Respondents are directed to file counter affidavit within six weeks. Rejoinder affidavit, if any, may be filed by the applicant within two weeks thereafter.</p> <p>List this case for admission on 19.10.2016 before the appropriate Court having jurisdiction as per roster of that date.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>LN/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 387 of 2016 with M.A. No. 1635 of 2016
(Inure: O.A. No. Nil of 2016)

Puran Chandra

By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>10.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri K.K.S. Bisht, learned counsel for the applicant, and Dr. Shailendra Sharma Atal, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>On call of the case, Shri K.K.S. Bisht, learned counsel for the applicant appears and prays that he be granted four weeks, time for replication to the objection filed by the respondents to the application for condonation of delay.</p> <p>Time prayed for is granted.</p> <p>List this case for order on 29.09.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 39 of 2014 with M.A. No. 2274 of 2015 & M.A. No. 1192 of 2016

Subhash Mishra

By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>10.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri Dharmesh Sinha, learned counsel for the applicant, Shri Alok Trivedi for respondents no 4 to 6 and Shri Rajeev Pandey, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>Heard learned counsel for the parties.</p> <p>Shri Rajeev Pandey, learned Standing Counsel appearing for the respondents states that he has received instructions from PCDA(P), Allahabad. He prays for two weeks and no more time to file reply as directed by this Court on 24.05.2016. Time prayed for is granted.</p> <p>List this case for orders on 23.09.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 82 of 2016

Shailendra Kumar Yadav
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>10.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri R. Chandra, learned counsel for the applicant, and Dr. Shailendra Sharma Atal, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>On call of the case, Shri R. Chandra, learned counsel for the applicant appears and states that he has received Counter Affidavit filed by the respondents, in Court, today. He, therefore, prays for and is granted three weeks' time to file Rejoinder Affidavit.</p> <p>List this case for order on 4.10.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 31 of 2013

Chandrabhan Singh
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>10.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri V.P. Pandey, learned counsel for the applicant, and Shri D.K. Pandey, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>On call of the case Shri V.P. Pandey, learned counsel for the applicant appears and states that he will be filing amendment application in Registry during course of the day.</p> <p>If the same is filed, list this case for order on 23.09.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

T.A. No. 3 of 2016

Vinod Kumar Tewari
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>10.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri P.K. Shukla, learned counsel for the applicant, and Shri Ashish Kumar Singh, learned counsel for the respondents, along with Lt. Priya Prasad, Departmental Representative.</p> <p>Matter pertains to Disability Pension.</p> <p>As per office report dated 08.08.2016, Bench Copy has been filed by Shri P.K. Shukla, learned counsel for the applicant.</p> <p>Accordingly, list this case for admission on 28.09.2016.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

O.A. No. 189 of 2010 with M.A. No. 107 of 2012

Shiv Kumar Joshi

By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>10.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri P.N. Chaturvedi, learned counsel for the applicant, and Lt. Priya Prasad, Departmental Representative.</p> <p>This matter pertains to Summary Court Martial Proceedings which has been heard by the Bench consisting of one of us (Abdul Mateen, Member (J) and Hon'ble Lt. Gen. A.M. Verma, Member (A) (since retired) on 18.03.2016 and it was ordered to be listed for further hearing.</p> <p>Since Hon'ble Lt. Gen. A.M. Verma, Member (A) has retired and this Court does not exercise jurisdiction over SCM matters, let it be listed for hearing on 18.08.2016 before the Bench concerned.</p> <p>(Lt Gen Gyan Bhushan) Member (A)</p> <p>(Justice Abdul Mateen) Member (J)</p> <p>rpm/</p>

Form No. 4
[See rule 11(1)]
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

M.A. No. 708 of 2016 with M.A. No. 1627 of 2016

Harish Chandra Srivastava
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>10.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri JN Mishra, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents alongwith WO Deshraj Singh, Departmental representative.</p> <p><u>M.A.No.708 of 2016 and M.A.No. 1439 of 2016</u></p> <p>Heard learned counsel for the parties.</p> <p>The applicant, who was serving in the Air Force, was prematurely discharged from service in the year 1973. The claim of the applicant is that he was not allowed Reservist pension, to which he is entitled, in spite of several requests made by him to the authorities. In any case, there is a delay of 42 years, 1 month and 10 days in filing the O.A. It is a settled principle of law, as propounded by the Hon'ble Supreme Court in the cases of Balkrishna S.P. Waghmare Vs Shree Dhyaneshwar Maharaj Sansthan (AIR 1959 SC 798), M.R. Gupta Vs Union of India (1995 (5) SCC 628) and Shiv Das Vs Union of India reported in 2007(3) SLR Page 445, that matters relating to pension are recurring cause of action; that is to say, the bar of limitation would not apply, as in case of pension the cause of action actually continues from month to month. Thus, if delay has been properly explained, the same has to be condoned depending upon the facts and circumstances of each case. In the case in hand, we find that the applicant was discharged in the year 1973. He has been making requests to the authorities for grant of Reservist pension, but the authorities concerned are sitting tight over the matter. In the facts and circumstances of the present case, therefore, we reject the objection (M.A.No. 1439 of 2016) filed by the respondents and allow the application (M.A.No. 708 of 2016) condoning the delay in filing the O.A.</p> <p>We have also heard learned counsel for the parties on this O.A, by</p>

means of which claim for grant of Reservist pension has been made by the applicant. Learned counsel for the applicant confines his submissions only to Relief Clause No. (iii), which relates to the prayer having made for a direction to the respondents to decide the representation dated 17.02.2016.

Since the prayer made is innocuous in nature, we direct that the representation dated 17.02.2016 made by the applicant shall be disposed of by the respondents expeditiously, say within a period of three months from the date of receipt of a certified copy of this order, by passing a reasoned and speaking order.

With the aforesaid direction, this O.A stands finally disposed of.

(Lt Gen Gyan Bhushan)
Member (A)

(Justice Abdul Mateen)
Member (J)

LN/

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

Court No. 1

M.A. No. 995 of 2016
(Inre: O.A. No. Nil of 2016)

Parsu Ram
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>10.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Shri VP Pandey, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p><u>M.A.No. 995 of 2016</u></p> <p>Heard learned counsel for the parties on this application by means of which he has prayed for condonation of delay in filing the O.A.</p> <p>The grievance of the applicant is that he had retired from the post of Naik but he is being provided pension of Sepoy. According to him, this anomaly is continuing for the last about fifteen years. It is a settled principle of law, as propounded by the Hon'ble Supreme Court in the cases of Balkrishna S.P. Waghmare Vs Shree Dhyaneshwar Maharaj Sansthan (AIR 1959 SC 798), M.R. Gupta Vs Union of India (1995 (5) SCC 628) and Shiv Das Vs Union of India reported in 2007(3) SLR Page 445, that matters relating to pension are recurring cause of action; that is to say, the bar of limitation would not apply, as in case of pension the cause of action actually continues from month to month. As such, M.A.No. 995 of 2016 is allowed and delay in filing the O.A is hereby condoned.</p> <p>We have also heard learned counsel for the parties on the O.A, by means of which the applicant has raised grievance that he had retired from the post of Naik, but he is being paid pension of Sepoy. Learned counsel for the applicant admits that the applicant has not approached the respondents for rectification of this anomaly in grant of pension. He confines his submissions only to Relief Clause (b) by means of which prayer has been made for a direction to the respondents to issue PPO by granting service pension to the rank of Naik.</p>

Since the prayer made is innocuous in nature, we direct the applicant to make a representation to the respondents bringing the aforesaid anomaly in their knowledge within a period of ten days from today. The respondents shall look into the matter and dispose of the said representation within a period of three months from the date of receipt of said representation by passing a reasoned and speaking order.

With the aforesaid directions, this O.A stands finally disposed of.

(Lt Gen Gyan Bhushan)
Member (A)

(Justice Abdul Mateen)
Member (J)

LN/

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

Court No. 1

M.A. No. 1238 of 2016
(Inre: O.A. No. Nil of 2016)

Prem Prakash Bhandari
By Legal Practitioner for Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>10.08.2016</u> <u>Hon'ble Mr. Justice Abdul Mateen, Member (J)</u> <u>Hon'ble Lt Gen Gyan Bhushan, Member (A)</u></p> <p>Present: Col (Retd) BP Singh, learned counsel for the applicant and Shri AK Gupta, learned counsel for the respondents alongwith Lt Priya Prasad, Departmental representative.</p> <p><u>M.A.No. 1238 of 2016</u></p> <p>Heard learned counsel for the parties on this application for condonation of delay in filing the O.A.</p> <p>It is a pension matter. While going through the O.A, we find that the applicant has prayed for a direction to the respondents to grant benefit of rounding off/broad banding of existing disability percentage of 30% to 50% with effect from 01.12.1996. It is a settled principle of law, as propounded by the Hon'ble Supreme Court in the cases of Balkrishna S.P. Waghmare Vs Shree Dhyaneshwar Maharaj Sansthan (AIR 1959 SC 798), M.R. Gupta Vs Union of India (1995 (5) SCC 628) and Shiv Das Vs Union of India reported in 2007(3) SLR Page 445, that matters relating to pension are recurring cause of action; that is to say, the bar of limitation would not apply, as in case of pension the cause of action actually continues from month to month. We, therefore, allow this application and condone the delay in filing the O.A.</p> <p>We have also heard learned counsel for the parties on admission of the O.A, which has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 and by means of which a prayer has been made that the pension, which is being provided to the applicant, be rounded off from 30% to 50% in view of the law laid down by the Hon'ble Apex Court in the case of Union of India and others versus Ram Avtar. There appears to be a case in favour of the applicant. Accordingly, we admit this O.A.</p>

The respondents are directed to file counter affidavit within a period of three weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List this case for orders on **06.10.2016**.

(Lt Gen Gyan Bhushan)
Member (A)

(Justice Abdul Mateen)
Member (J)

LN/