

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (Sl. No.12)

O.A. No. 1005 of 2023

Ex Hav Khub Singh
By Legal Practitioner for the Applicant : Shri Ravi Kumar Yadav, Advocate
Shri Saurabh Yadav, Advocate

Applicant

Union of India & Others
By Legal Practitioner for Respondents : Shri Asheesh Agnihotri, Advocate

Versus

Respondents

Notes of the Registry	Orders of the Tribunal
	<div>01.10.2024 Hon’ble Mr. Justice Anil Kumar, Member (J) Hon’ble Vice Admiral Atul Kumar Jain, Member (A)</div> <div>1. On the case being taken up for hearing Shri Ravi Kumar Yadav, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents are present.</div> <div>2. The documents in support of Substitution Application along with Supplementary Affidavit filed on behalf of the applicant, is taken on record.</div> <div>3. This Original Application has been filed with delay condonation application. After hearing the parties’ counsel, the delay condonation application moved on behalf of the applicant, has been allowed and O.A. has been admitted vide order dated 22.8.2023.</div> <div>4. On 02.05.2024, Counter Affidavit has been filed by the respondents, which has already been taken on record. On the same day i.e. 02.5.2024, Objection to delay condonation application was also filed by the respondents, which was not required because delay condonation application has already been decided on 22.8.2023 and as such the Objection to delay condonation application filed by the respondents on 2.5.2024 is liable to be rejected.</div> <div>5. On 28.5.2024, it is submitted by the learned counsel for the applicant that the applicant died on 29.1.2024. The legal heirs of the applicant has moved an application for setting aside the Abatement bearing MA No. 1136 of 2024 along with delay condonation application. Substitution application has also been filed by the applicant along with delay condonation application bearing MA. No. 1137 of 2024. The applicant has also moved separate M.A. No. 1135 of 2024 for</div>

	<p>condonation of delay in filing for setting aside the abatement application as well as Substitution application.</p> <p>6. Respondents were granted time to file Objection on delay condonation application and Substitution application moved by the applicants, but no Objection has been filed by the respondents.</p> <p>7. Heard the learned counsel for the parties on delay condonation application in filing the Abatement application and Substitution Application and perused the records.</p> <p>8. It is submitted by the learned counsel for the applicants that the applicant Hav. Khub Singh (retired) died on 29.01.2024 during pendency of the Original Application leaving behind his legally wedded wife and three children, but Substitution Application could not be made within a period of 90 days from the date of death of original applicant. It is submitted by learned counsel for the applicants that the delay in filing the Substitution Application and application for setting-aside Abatement of the case was neither intentional nor deliberate, but it is due to the reasons shown in the Affidavit annexed with delay condonation application in filing Abatement application and Substitution Application. It is also submitted that the delay in filing the said application is due to non-availability of legal heirs for the reason of post death rituals and delay in getting copy of death certificate.</p> <p>9. In Substitution Application, it is mentioned that heirs of the original applicant are his wife namely Smt. Bhagwan Devi and three children namely Sri Raj Kumar and Rajesh Kumar (two sons) and Ms. Ekta Rani (daughter). In support of their application, the applicants have annexed a copy of death certificate of the original applicant and details of family members of the deceased employee. There are sufficient grounds to accept the applications for setting-aside the Abatement, Application for Substitution of the applicants and delay condonation application filed in support of above-mentioned applications.</p> <p>10. In view of the above, application for setting aside the Abatement (MA No. 1136 of 2024) Substitution Application (MA No. 1137 of 2024) and application for condonation of delay in filing both applications (MA No. 1135 of 2024) are allowed. The applicants are directed to carry out the amendment within two weeks.</p> <p>11. List on 11.11.2024.</p> <div><div>(Vice Admiral Atul Kumar Jain) Member (A)</div><div>(Justice Anil Kumar) Member (J)</div></div> <p>GIRISH/-</p>
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