

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (Sl. No. 24)

O.A. No. 534 of 2024 with M.A. No. 614 of 2024

Ex Nk Chandra Deo Singh Yadav

By Legal Practitioner for the Applicant : Shri VP Pandey, Advocate
Shri RK Singh, Advocate
Shri DK Dixit, Advocate

Applicant

Versus

Union of India & Others

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

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>17.09.2024</u> <u>Hon’ble Mr. Justice Anil Kumar, 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 VP Pandey, Ld. Counsel for the Applicant and Shri Bipin Kumar Singh, Ld. Counsel for the respondents are present.</p> <p><u>M.A. No 614 of 2024</u></p> <p>2. Heard Shri VP Pandey, learned counsel for the applicant and Shri Bipin Kumar Singh, learned counsel for the respondents on application for condonation of delay.</p> <p>3. Objection on application for condonation of delay filed by learned counsel for the respondents is taken on record.</p> <p>4. There is delay of 20 years, 04 months and 19 days in filing of Original Application.</p> <p>5. By means of this Original Application, the applicant has prayed for grant of disability pension. The applicant joined Indian Army on 07.09.1987 and boarded out from service on 01.07.2000 after rendering 13 years, 01 month and 24 days of colour service for the disability “SCHIZOID PERSONALITY DISORDER”. Copy of invalidating medical board was not provided to the applicant. He preferred an application under Right to Information Act 2005 on 10.02.2024 then he was provided copy of rejection of disability pension claim order dated 12.07.2001 and Invalidating Medical Board on 06.03.2024. On receipt of medical documents, the applicant came to know that his disability was assessed @ 30% for two years, The applicant was not provided copy of Invalidating Medical Board, hence delay in filing Original Application. He also prayed that delay be counted from the date he was provided copy of rejection</p>

order and invalidating medical board i.e. 06.03.2024. He submitted that delay in filing Original Application is not deliberate, but on account of reasons stated above. If delay in filing Original Application is not condoned, applicant will suffer irreparable loss.

6. On the other hand, Learned counsel for the respondents opposed submission of the applicant and submitted that there is inordinate delay in filing the Original Application. He pleaded for dismissal of O.A. on the ground that delay has not been explained day to day basis.

7. We have gone through the affidavit filed by the applicant in support of application for condonation of delay.

8. We have considered the submissions of Ld. Counsel for the parties. In view of the facts and circumstances of the case the application for condonation of delay deserves sympathetic consideration. Further being pensionary matter and in view of the law laid down by the Hon'ble Apex court in the case of ***Union of India and others Versus Tarsem Singh*** [2008 (8) SCC 648], delay is liable to be condoned. The grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient. Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.

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9. This application has been filed for grant of disability pension. The matter needs adjudication

10. Admit.

11. Learned counsel for the respondents prays for and is granted four week' time to file counter affidavit. Rejoinder affidavit, if any, may be filed within two weeks', thereafter.

12. List on **06.01.2025**.

(Vice Admiral Atul Kumar Jain)
Member (A)

(Justice Anil Kumar)
Member (J)

UKT/-