

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

Diary No: 530 of 2024 Inre: O.A. No. (Nil) of 2024

Ex (Gnr) Purshottam Singh S/o Late Shri  
Surajpal Singh  
By Legal Practitioner for the Applicant : Shri Veer Raghav Chaubey, Advocate

Applicant

Versus

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

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>31.07.2024</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 Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents is present. No one is present on behalf of the applicant.</p> <p>2. This application has been filed by the applicant for grant of free legal assistance to file O.A. for redressal of his grievances.</p> <p>3. Applicant was directed to appear before the Bench either personally or through his representative, so that it may be considered whether there is sufficient ground to provide him financial help or not. Applicant was granted number of opportunities to be present in person before the Bench but he did not appear. He has engaged a counsel who is also not present today.</p> <p>4. In absence of applicant or his representative, it cannot be ascertained whether applicant is entitled for free legal aid.</p> <p>3. In view of the above, Dy No 530 of 2024 inre O.A. Nil of 2024 is <b>rejected</b>.</p> <p>4. It will be open to the applicant to move a fresh application, if so required.</p> <div><div>(Vice Admiral Atul Kumar Jain) Member (A)</div><div>(Justice Anil Kumar) Member (J)</div></div> <p>UKT/-</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. 206 of 2024 with M.A. No. 265 of 2024

Ex Sep Vimal Kumar Pathak  
By Legal Practitioner for the Applicant : Col AK Srivastava (Retd), Advocate  
Shri Amarendu Srivastava, Advocate

Applicant

Versus

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

Respondents

Notes of the Registry	Orders of the Tribunal
	<div><div><div>31.07.2024</div><div>Hon'ble Mr. Justice Anil Kumar, Member (J)</div><div>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</div></div><div><div>1. On the case being taken up for hearing Col AK Srivastava (Retd), Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents are present through video conferencing.</div><div>2. This original application has been filed against the discharge of the applicant seeking the quashment of the impugned order/ documents of his discharge on 03.08.1980 and for grant of pensionary benefits.</div><div>3. There is delay of 41 years 01 month and 03 days in filing this original application. Applicant has moved delay condonation application for condoning the delay to which the respondents have filed objections which have already taken on record.</div><div>4. Ld. counsel for the applicant submitted that due to the ill health of the applicant's father, he submitted his application for premature discharge in 1974-75 which was not considered by the respondents till March 1980. Later the applicant did not warrant his voluntary discharge as his domestic problems were under control but the respondents decided to issue discharge order on the basis of his five year old application submitted in the year 1974-75 without ascertaining the changed circumstances and discharged him from service w.e.f. 03.08.1980.</div><div>5. Applicant's counsel further submitted that applicant had submitted his representation dated 20.06.1980 followed by the reminders dated 09.10.1980, 10.03.1981, 21.12.1981, 30.09.1981 and 21.12.1981 but no action has been taken by the respondents and even Discharge Certificate has not been issued till date. Copy of the representations are annexed as Annexure Nos. A-2, A-3, A-4, A-5 and A-6 to the original application.</div><div>6. Ld. counsel for the applicant urged that delay is not deliberate. He stated that applicant's mother was suffering with problem of Cervical soft tissue and was gone under surgery and treatment w.e.f. Sep 1985. His daughter was</div></div></div>

	<p>suffering with problem effecting CNS, Cerebra and Thyroid for which she was taken for treatment/ surgery to different hospitals in different part of the Country. Applicant's son was also suffering from cancer and after prolonged treatment he was died on 10.11.2014. Due to the death of his son, wife of the applicant has developed several medical trauma, depression and hypertension and other related disabilities.</p> <p>7. Applicant's counsel pleaded that the father of the applicant has died in 2017 and further due to adverse effects of Covid-19 Pandemic and poor financial condition of the applicant, he could not approach the Tribunal.</p> <p>8. Ld. counsel for the respondents vehemently opposed the submission of the applicant' counsel and submitted that exorbitant delay caused at the end of the applicant has not been properly explained. Applicant should remain vigilant for his rights. Applicant has not explained the reasons for inordinate delay.</p> <p>9. Heard the Id. counsel for the parties and perused the records.</p> <p>10. Having regard to the facts of the case, it is admitted fact that applicant was discharged from service w.e.f. 03.08.1980 and the applicant has preferred many representations.</p> <p>11. It is evident from the above that since 1980 to 2023, the applicant has not chosen to challenge his discharge order before the appropriate forum. It is a settled law that repeated representation(s) will not give a fresh cause of action. The Hon'ble Supreme Court in the case of <b>S.S. Rathore vs State of Madhya Pradesh, reported in 1990 AIR 10</b>, held that the submission of repeated representations shall not be taken into consideration in the matter of fixing limitation.</p> <p>12. In the case of <b>Chennai Metropolitan water supply and Sewerage Board and others Vs. T.T Murali Babu, (2014) 4 SCC 108</b>, the Hon'ble Apex Court has held as under:</p> <p>16. .... A court is not expected to give indulgence to such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."</p> <p>13. The Hon'ble Apex Court in the case of <b>Basawaraj &amp; Anr. Vs. The Spl. Land Acquisition Officer, CIVIL APPEAL NO. 6974 of 2013</b> has held as under:</p> <p>"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive</p>
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	<p>factor to be considered while interpreting a statute.</p> <p>13. ....</p> <p>14. ....</p> <p>15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”</p> <p>14. Thus, law on the point of delay condonation is that doctrine of delay and laches should not be lightly brushed aside. A Court is not expected to give indulgence to such indolent persons who compete with Kumbhakarna.</p> <p>15. From the above, it is evident that the applicant has filed this original application after more than 41 years for which sufficient explanation has not been given. Delay condonation application lacks merits and is liable to be dismissed.</p> <p>16. Accordingly, delay condonation application is dismissed. Original application is also stand dismissed at the admission stage itself.</p> <p>17. Connected M.P(s), if any, also stand disposed of.</p> <div><div><b>(Vice Admiral Atul Kumar Jain)</b> Member (A)</div><div><b>(Justice Anil Kumar)</b> Member (J)</div></div> <p>RK/-</p>
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