

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

678 of 2020

Lt Col Bir Singh

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Memo of appearance filed by Shri Rajesh Shukla, Advocate on behalf of the respondents is taken on record.</p> <p style="text-align: center;">Herd Shri Ajay Kumar Pandey, Ld. Counsel for the applicant and Shri Shri Rajesh Shukla, Ld. Counsel for the respondents.</p> <p style="text-align: center;">It is a fit case for adjudication.</p> <p style="text-align: center;">Admit.</p> <p style="text-align: center;">Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p style="text-align: center;">List the matter before Registrar on 23.03.2021 for exchange of pleadings.</p> <p style="text-align: center;">List the matter before Tribunal on 08.04. 2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>UKT/-</p>

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

O.A. 674 of 2020

Ex JWO Shiv Kant Pandey
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Memo of appearance filed by Dr. Shailendra Sharma Atal, Advocate on behalf of the respondents is taken on record.</p> <p style="text-align: center;">Heard Shri Amit Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Learned counsel for the respondents submits that O.A. in the present form is not maintainable as vide letter dated 12.09.2020, respondents have nowhere declined the prayer made by the applicant. He further submits that this letter simply states that no circular in the matter has been received from PCDA (Pension), Allahabad.</p> <p style="text-align: center;">Learned counsel for the respondents is directed to seek instructions in the matter and apprise this Tribunal within four weeks regarding circular to be issued.</p> <p style="text-align: center;">List the matter before Tribunal on 01.02. 2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>UKT/-</p>

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

O.A. No 675 of 2020

Ex Hav Surendra Kumar Singh
 By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
 By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Memo of appearance filed by Shri Amit Jaiswal, Advocate on behalf of the respondents is taken on record.</p> <p style="text-align: center;">Heard Shri SS Rajawat, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents.</p> <p style="text-align: center;">It is a fit case for adjudication.</p> <p style="text-align: center;">Admit.</p> <p style="text-align: center;">Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p style="text-align: center;">List the matter before Registrar on 03.03.2021 for exchange of pleadings.</p> <p style="text-align: center;">List the matter before Tribunal on 01.04.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>UKT/-</p>

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

Ex. A. No 39 of 2020 Inre O.A. No 196 of 2019

Ex AC Raj Narayan Tiwari By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Memo of appearance filed by Shri Yogesh Kesarwani, Advocate on behalf of the respondents is taken on record.</p> <p style="text-align: center;">On the case being taken up for hearing Shri Shiv Kant Pandey, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Learned counsel for the respondents is directed to seek instructions in the matter from the appropriate authority and apprise this Tribunal within four weeks from today.</p> <p style="text-align: center;">List on 05.02.2021 for orders.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div style="width: 45%; text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</div><div style="width: 45%; text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</div></div> <p style="text-align: left; margin-top: 10px;">UKT/-</p>

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

O.A. No 26 of 2018

Zile Singh

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing none is present on behalf of the applicant to press his cause.</p> <p>Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents is present.</p> <p>Despite several opportunities being taken, learned counsel for the applicant has not filed rejoinder affidavit, hence opportunity to file the same is closed.</p> <p>List on 18.12.2020 for final hearing.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

M.A. No 1667 of 2018 Inre O.A. (Nil) of 2018

Smt. Jahroon Nisha
 By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
 By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Arun Kumar and Shadab Haider, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present.</p> <p>The Original Application has been filed with delay of 05 years, 01 month and 29 days.</p> <p>The submission of Ld. Counsel for the applicant is that delay in filing Original Application is neither deliberate nor intentional, but for the reasons stated in affidavit filed in support of application. Further submission is that it is a pensionary matter in which bar is not applicable.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer saying no sufficient explanation has been offered.</p> <p>Upon hearing submissions of Ld. Counsel for both sides and considering the facts and circumstances of the case, we find that cause shown is sufficient.</p> <p>Accordingly, delay is condoned.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 694 of 2020</u></p> <p>It is a fit case for adjudication. Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 23.03.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 12.04.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

M.A. No 275 of 2019 Inre O.A. (Nil) of 2019

Nk Lochan Prasad Kawshyap
 By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
 By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Ms. Astha Singh Chauhan , Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents are present.</p> <p>The Original Application has been filed with delay of 04 months.</p> <p>The submission of Ld. Counsel for the applicant is that delay in filing Original Application is neither deliberate nor intentional, but for the reasons stated in affidavit filed in support of application. Further submission is that it is a pensionary matter in which bar is not applicable.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer saying no sufficient explanation has been offered.</p> <p>Upon hearing submissions of Ld. Counsel for both sides and considering the facts and circumstances of the case, we find that cause shown is sufficient.</p> <p>Accordingly, delay is condoned.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 693 of 2020</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 24.03.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 13.04.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

M.A. No 415 of 2018 Inre O.A. (Nil) of 2018

Satish Chand
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri AU Ahmed, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents are present.</p> <p>The Original Application has been filed with delay of 07 years, 04 months and 28 days.</p> <p>The submission of Ld. Counsel for the applicant is that delay in filing Original Application is neither deliberate nor intentional, but for the reasons stated in affidavit filed in support of application. Further submission is that it is a pensionary matter in which bar is not applicable.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer saying no sufficient explanation has been offered.</p> <p>Upon hearing submissions of Ld. Counsel for both sides and considering the facts and circumstances of the case, we find that cause shown is sufficient.</p> <p>Accordingly, delay is condoned.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 692 of 2020</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 24.03.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 14.04.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

M.A. No 328 of 2019 Inre O.A. (Nil) of 2019

Ex Gnr Ramesh Chander
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p>07.12.2020 <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Col AK Srivastava (Retd), Ld. Counsel for the applicant and Shri Anurag Mishra, Ld. Counsel for the respondents are present.</p> <p>The Original Application has been filed with delay of 21 years, 09 month and 04 days.</p> <p>The submission of Ld. Counsel for the applicant is that delay in filing Original Application is neither deliberate nor intentional, but for the reasons stated in affidavit filed in support of application. Further submission is that it is a pensionary matter in which bar is not applicable.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer saying no sufficient explanation has been offered.</p> <p>Upon hearing submissions of Ld. Counsel for both sides and considering the facts and circumstances of the case, we find that cause shown is sufficient.</p> <p>Accordingly, delay is condoned.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 691 of 2020</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 24.02.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 18.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

M.A. No 230 of 2019 Inre O.A. (Nil) of 2019

Ex Sep/ MT Ashok Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Chief of Army Staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicant and Shri RC Shukla, Ld. Counsel for the respondents are present.</p> <p>The Original Application has been filed with delay of 06 months and 07 days.</p> <p>The submission of Ld. Counsel for the applicant is that delay in filing Original Application is neither deliberate nor intentional, but for the reasons stated in affidavit filed in support of application.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer saying no sufficient explanation has been offered.</p> <p>Upon hearing submissions of Ld. Counsel for both sides and considering the facts and circumstances of the case, we find that cause shown is sufficient.</p> <p>Accordingly, delay is condoned.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 690 of 2020</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 20.04.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 06.05.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

M.A. No 392 of 2020 Inre O.A. (Nil) of 2020

Ex Nk (TS) Rajendra Singh Rawat
By Legal Practitioner for the Applicant

Applicant

Versus

Chief of Army Staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p>The Original Application has been filed with delay of 15 years, 08 month and 07 days.</p> <p>The submission of Ld. Counsel for the applicant is that delay in filing Original Application is neither deliberate nor intentional, but for the reasons stated in affidavit filed in support of application. Further submission is that it is a pensionary matter in which bar is not applicable.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer saying no sufficient explanation has been offered.</p> <p>Upon hearing submissions of Ld. Counsel for both sides and considering the facts and circumstances of the case, we find that cause shown is sufficient.</p> <p>Accordingly, delay is condoned.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 688 of 2020</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List the matter before Registrar on 26.02.2021 for exchange of pleadings.</p> <p>List the matter before Tribunal on 12.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No 324 of 2017

TD Kolekar
By Legal Practitioner for the Applicant

Applicant

Versus

Chief of Army staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicant and Shri Kaushik Chatterji, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Pleadings have been exchanged and the case is ripe for hearing. List on 21.01.2021 for hearing.</p> <p style="text-align: center;">On the date fixed, learned counsel for the respondents shall produce all original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>UKT/-</p>

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

O.A. No 575 of 2018

Hav L Gannaya

Applicant

By Legal Practitioner for the Applicant

Versus

Chief of Army Staff & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicant and Ms. Appoli Srivastava, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the applicant submits that this O.A. may be dismissed for want of instructions from the applicant.</p> <p>Accordingly, O.A. is dismissed.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>UKT/-</p>

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

Ex. A. No 25 of 2019 Inre O.A. No 297 of 2011

Ex Sub Kedar Prasad Mishra
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Col Rakesh Johri (Retd) and Shri Bhanu Pratap Singh, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Learned counsel for the applicant submits that despite the order being passed on 09.08.2018 the same has not been complied with.</p> <p style="text-align: center;">In reply learned counsel for the respondents prays for four weeks further time to make compliance of order which is allowed on payment of Rs. 5,000/- as cost.</p> <p style="text-align: center;">Let affidavit of compliance be filed within four weeks.</p> <p style="text-align: center;">List on 12.01.2021 for orders.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>UKT/-</p>

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

M.A. No. 1304 of 2018 with M.A. No. 1305 of 2018
Inre T.A. No. 284 of 2010

Umesh Kumar Chourasia
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;"><u>M.A. No. 1304 of 2018 with M.A. No. 1305</u></p> <p>Heard Col YR Sharma (Retd) learned counsel for the applicant and Shri GS Sikarwar, learned counsel for the respondents, assisted by Maj Sini Thomas, Departmental Representative.</p> <p>Learned counsel for the applicant submitted that T.A. was listed on 29.11.2016 for exchange of synopsis/hearing. He further submits that Col PN Chaturvedi, Advocate, who was representing the applicant, fell ill and the T.A. was dismissed for non prosecution on 02.02.2017. He further submits that Col PN Chaturvedi, Advocate succumbed to illness in March, 2018. Thereafter, applicant engaged Col YR Sharma (Retd), Advocate who prepared the case and filed recall application.</p> <p>Learned counsel for the applicant further submits that he is conscious of the fact that restoration application can be filed within 30 days of dismissal, however, in peculiar circumstances, Tribunal can entertain application even beyond thirty days under Rule 25 of the AFT (Procedure) Rules, 2007.</p> <p>Shri GS Sikarwar, learned Counsel for the respondents, on the other hand submits that there is inordinate delay in filing application and the same is not properly and satisfactorily explained and, further, applicant is in habit of getting application dismissed and, considering this, delay should not be condoned.</p> <p>Considering the peculiar facts and circumstances of the case and also that Shri PN Chaturvedi, Advocate, who was earlier prosecuting the case on behalf of the applicant, remained ill for a considerable long time and succumbed to it, we feel it proper to condone the delay.</p> <p>Accordingly, delay in filing application is condoned.</p> <p>In view of above, recall application is allowed subject to payment of Rs</p>

1,000/- as cost payable within a week.

On cost being paid, let recall application No 689 of 2017 with M.A. No. 690 of 2017 and M.A. No. 882 of 2017 be restored to its number and be listed on **08.02.2021**.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

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

M.A. No. 360 of 2019 Inre O.A. (Nil) of 2019

Col Sanjeev Agnohotri

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	<p>Orders of the Tribunal</p> <p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Memo of appearance filed by Shri Rajiv Narayan Pandey, Advocate on behalf of the respondents is taken on record.</p> <p>Heard Shri JN Mishra, learned counsel for the applicant and Shri Rajiv Narayan Pandey, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative.</p> <p style="text-align: center;"><u>M.A. No. 360 of 2019</u></p> <p>There is delay of 13 years, 09 months and 23 days in filing application.</p> <p>Submission of Ld. Counsel for the applicant is that delay caused in filing of Original Application is not deliberate, but for the reasons that he was quite hopeful that rectification may be done on the part of respondents which they did not do.</p> <p>Respondents have vehemently opposed the prayer and submitted that applicant has failed to offer satisfactory explanation of more than 13 years delay.</p> <p>Upon hearing submissions of learned counsel of both sides and considering facts and circumstances of the case we find that cause shown are sufficient.</p> <p>Accordingly, delay is condoned.</p> <p>Let O.A. be registered.</p> <p style="text-align: center;"><u>O.A. No. 695 of 2020</u></p> <p>Heard.</p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Learned counsel for the applicant submitted that controversy involved in O.A. has already been settled by this Bench in O.A. No. 557 of 2017 Col Arvind Kumar vs Union of India & Others decided on 22.05.2018. He further submits that present O.A. may also be disposed off in terms of above judgments.</p> <p>In reply, learned counsel for the respondents seeks and is allowed four weeks time to seek instructions and apprise the Tribunal.</p> <p>On the date fixed, representative of CDA (O), Pune shall remain present to assist the Tribunal.</p> <p style="text-align: center;">List on 18.02.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>
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Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

O.A. No. 324 of 2019

Dharambir Singh

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri JN Mishra, learned counsel for the applicant and Mrs Anju Singh, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative.</p> <p style="text-align: center;">Despite several opportunities being given to applicant to file rejoinder affidavit, the same has not been filed as yet and therefore, opportunity to file the same is closed.</p> <p style="text-align: center;">Order is reserved.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>rathore</p>

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

O.A. No. 193 of 2019

Ex Gdr Surendxra Singh

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being listed for hearing Shri Manish Misra and Shri Sumit Kumar Mishra, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p style="text-align: center;">As prayed by learned counsel for the respondents, list on 08.12.2020.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

O.A. No. 380 of 2018

Ex JWO Vishnu Deo Tiwari
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Ms Nisha Pandey and Shri Shiv Kant Pandey, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative are present.</p> <p>Pleadings are complete and case is ripe for hearing.</p> <p>List on 22.02.2021 for physical hearing.</p> <p>On the date fixed, learned counsel for the respondents shall produce original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

M.A.No. 461 of 2019 Inre O.A. No. (Nil) of 2019

Ex Hav (Hony Nb Sub) Sachindra Nath Mishra
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Shri Om Prakash, learned counsel for the petitioner and Shri RC Shukla, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative are present.</p> <p style="text-align: center;"><u>M.A. No. 461 of 2019</u></p> <p>There is delay of 12 years, 10 months and 07 days in filing Original Application. Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay caused in filing of Original Application is not deliberate, but on account of reasons stated in affidavit filed in support of application.</p> <p>Per contra, Ld. Counsel for the respondents submits that there being a delay of 12 years, 10 months and 07 days in filing Original Application, and no sufficient explanation being offered for the same, application deserves rejection.</p> <p>Considering that in pensionary matters bar of limitation is not applicable, as cause of action in such matters does not accrue on a specific date, but it runs from month to month, and grounds stated in affidavit filed in support of delay condonation application being genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay caused in filing of application is condoned. Delay condonation application stands decided accordingly.</p> <p>Let Original Application be registered.</p> <p style="text-align: center;"><u>O.A. No. 697 of 2020</u></p> <p>Heard.</p> <p>Order is reserved.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

Ex-A/197 of 2017 Inre O.A. No. 157 of 2017

Jevanand

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Shri Om Prakash Kushwaha, learned counsel for the applicant and Dr. Gyan Singh, learned counsel for the respondents assisted by Maj Sini Thomas, Departmental Representative are present.</p> <p>Affidavit of compliance filed by the respondents is taken on record.</p> <p>Learned counsel for the applicant is reported to be ill.</p> <p>List on 18.02.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)

Ex-A/178 of 2018 Inre O.A. No. 342 of 2017

Ex Hav Kali Sahai
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Shri Pankaj Kumar Shukla, learned counsel for the applicant and Mrs Amrita Chakravborty, learned counsel for the respondents assisted by Maj Sini Thomas, Departmental Representative are present.</p> <p>List on 07.01.2021.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

Ex-A/186 of 2018 Inre O.A. No. 340 of 2017

Ex Hav (Hony Nb Sub) Devi Kant Mishra
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Shri Parijaat Belaura, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative are present.</p> <p>Learned counsel for the respondents submits that affidavit of compliance filed by the respondents be taken on record.</p> <p>Affidavit of compliance is taken on record.</p> <p>Learned counsel for the applicant seeks and is allowed two weeks time to file objection.</p> <p>List on 19.01.2021.</p> <p style="text-align:right">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

Ex-A/226 of 2018 Inre R.A. No. 43 of 2017
Inre O.A. No. 170 of 2017

<p>Ex Nb Sub Ram Raj Pathak By Legal Practitioner for the Applicant</p> <p>Union of India & Others By Legal Practitioner for Respondents</p>	<p>Versus</p>	<p>Applicant</p> <p>Respondents</p>
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Notes of the Registry	Orders of the Tribunal		
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: justify;">On the case being listed for hearing Shri Parijaat Belaura, learned counsel for the applicant and Mrs Amrita Chakraborty, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative are present.</p> <p style="text-align: justify;">Learned counsel for the respondents submits that affidavit of compliance filed by the respondents be taken on record.</p> <p style="text-align: justify;">Affidavit of compliance is taken on record.</p> <p style="text-align: justify;">Learned counsel for the applicant seeks and is allowed two weeks time to file objection.</p> <p style="text-align: justify;">List on 19.01.2021.</p> <table border="0" style="width: 100%; margin-top: 20px;"> <tr> <td style="width: 50%; text-align: center;"> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> </td> <td style="width: 50%; text-align: center;"> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> </td> </tr> </table> <p style="margin-top: 10px;">rathore</p>	<p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p>	<p>(Justice Umesh Chandra Srivastava) Member (J)</p>
<p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p>	<p>(Justice Umesh Chandra Srivastava) Member (J)</p>		

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

M.A. No. 2037 of 2018 Inre O.A. (Nil) of 2018

Smt Shradha Arjunan
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Shri Parijaat Belaura, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative and Ms Tonifa Miranda are present.</p> <p>Learned counsel for the applicant is directed to delete the name of respondent 5 from the O.A.</p> <p>Heard Dr. Shailendra Sharma Atal, learned counsel for the respondent No 1 to 4 and Ms Tonifa Miranda, learned counsel for the respondent No 6 (now 5 after deletion of respondent No 5).</p> <p><u>M.A. No. 2037 of 2018</u></p> <p>There is delay of 17 years, 10 months and 09 days in filing of Original Application.</p> <p>Submission of learned counsel for the applicant is that there is no delay in filing application as this is a pensionary matter in which bar of limitation is not applicable. Further submission of learned counsel for the applicant is that after the death of applicant's husband in the year 1999 she is running from pillar to post for receiving pension. A Civil Suit she had filed in this regard which decreed on 16.05.2013 declaring her legally wedded wife but even then she is not getting the pension.</p> <p>Respondents have vehemently opposed the prayer saying there is inordinate delay on the part of applicant and the same has not been properly and satisfactorily explained.</p> <p>Upon hearing learned counsel of both sides and considering facts and circumstances of the case we find that bar of limitation is not applicable in pensionary matters, therefore, O.A. is liable to be entertained. Accordingly, delay is condoned.</p> <p>Delay condonation application stands disposed of.</p> <p>Let O.A. be registered.</p> <p><u>O.A. No.703 of 2020</u></p> <p>Heard.</p> <p>Admit</p> <p>It is a fit case for adjudication.</p> <p>Learned counsel for the respondent No 1 to 4 seeks and is allowed four</p>

weeks time to file counter affidavit. Rejoinder affidavit, if any, may be filed by applicant within two weeks next thereafter.

Counter affidavit alongwith counter claim filed by respondent No 6 (now respondent No 5) is taken on record.

Replication to counter claim may be filed within four weeks.

List on **23.03.2021** before the Registrar Court for exchange of pleadings and on **01.04.2021** for hearing before Tribunal.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

rathore

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

M.A. No. 1909 of 2018 Inre O.A. (Nil) of 2018

Maheshwar Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Shri RN Tripathi, learned counsel for the applicant and Shri Arun Kumar Sahu, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative are present.</p> <p style="text-align: center;"><u>M.A. No. 1909 of 2018</u></p> <p>The Original Application has been filed with delay of 2 years, 04 months and 18 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing of Original Application is not deliberate, but on account of reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing of application is condoned. Application stands decided accordingly.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 698 of 2020</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List this case on 26.03.2021 before the Registrar Court for exchange of pleadings and thereafter on 29.04.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

M.A. No. 2052 of 2018 Inre O.A. (Nil) of 2018

**Smt Sabuli Devi wife of Rfn (Late)
Kishan Singh** Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Shri Shailendra Kumar Singh, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative are present.</p> <p style="text-align:center"><u>M.A. No. 2052 of 2018</u></p> <p>The Original Application has been filed with delay of 2 years, 04 months and 18 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing of Original Application is not deliberate, but on account of reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing of application is condoned. Application stands decided accordingly.</p> <p>Let Original Application be registered.</p> <p style="text-align:center"><u>O.A. No. 699 of 2020</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List this case on 26.03.2021 before the Registrar Court for exchange of pleadings and thereafter on 30.04.2021 for final hearing.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore</p>

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

M.A. No. 951 of 2018 Inre O.A. (Nil) of 2018

Capt Parit Sagar Baburao By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal		
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Shri Shailendra Kumar Singh and Shri Ashish Kumar Singh, learned counsel for the applicant and Shri Namit Sharma, learned counsel for the respondents alongwith Maj Sini Thomas, Departmental Representative are present.</p> <p style="text-align: center;"><u>M.A. No. 951 of 2018</u></p> <p>There is delay of 01 months and 20 days in filing Original Application.</p> <p>Submission of learned counsel for the applicant is that delay in filing application is not deliberate but for the reasons stated in affidavit filed in support of application.</p> <p>Learned counsel for the respondents vehemently opposed the prayer and submitted that applicant has failed to offer day to day explanation of delay.</p> <p>Upon hearing submission of learned counsel for both sides and considering the facts and circumstances of the case, we find that bar of limitation is not applicable in this matter. We further find that delay in filing application is properly explained therefore delay is liable to be condoned.</p> <p>Accordingly, we condone the delay.</p> <p>Let Original Application be registered.</p> <p style="text-align: center;"><u>O.A. No. 700 of 2020</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Learned counsel for the respondents seeks and is allowed four weeks time to file counter affidavit. Rejoinder affidavit, if any, may be filed by applicant within two weeks next thereafter.</p> <p>List on 26.03.2021 before Registrar Court for exchange of pleadings.</p> <p>List before Tribunal on 30.04.2021 for final hearing.</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</td><td style="width: 50%; text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</td></tr></table> <p style="text-align: left; margin-left: 10px;">rathore/sb</p>	(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)
(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)		

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

M.A. No. 1547 of 2018 Inre O.A. (Nil) of 2018

Samay Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Shri SP Tripathi, learned counsel for the applicant and Shri Rajiv Pandey, learned counsel for the respondents are present.</p> <p><u>M.A. No. 1547 of 2018</u></p> <p>There is delay of 08 years, 04 months and 07 days in filing Original Application. Submission of learned counsel for the applicant is that delay in filing application is not deliberate but for the reasons stated in affidavit filed in support of application.</p> <p>Learned counsel for the respondents vehemently opposed the prayer and submitted that applicant has failed to offer day to day explanation of delay.</p> <p>Upon hearing submission of learned counsel for both sides and considering the facts and circumstances of the case, we find that bar of limitation is not applicable in this matter. We further find that delay in filing application is properly explained therefore delay is liable to be condoned.</p> <p>Accordingly, we condone the delay. Let Original Application be registered.</p> <p><u>O.A. No. 701 of 2020</u></p> <p>It is a fit case for adjudication. Admit.</p> <p>Learned counsel for the respondents seeks and is allowed four weeks time to file counter affidavit. Rejoinder affidavit, if any, may be filed by applicant within two weeks next thereafter.</p> <p>List on 26.03.2021 before Registrar Court for exchange of pleadings. List before Tribunal on 03.05.2021 for final hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore/sb</p>

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

M.A. No. 731 of 2019 Inre O.A. (Nil) of 2019

Ex Sep Birendra Singh By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being listed for hearing Shri Sudhir Kumar Singh, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents assisted by Maj Sini Thomas, Departmental Representative are present.</p> <p style="text-align: center;"><u>M.A. No. 731 of 2019</u></p> <p>The Original Application has been filed with delay of 37 years, 09 months and 21 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing of Original Application is not deliberate, but on account of reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing of application is condoned. Application stands decided accordingly.</p> <p>Let Original Application be registered.</p> <p style="text-align: center;"><u>O.A. No. 702 of 2020</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter.</p> <p>List this case on 26.03.2021 before the Registrar Court for exchange of pleadings and thereafter on 03.05.2021 for final hearing.</p> <p style="display: flex; justify-content: space-between; margin-top: 20px;">(Vice Admiral Abhay Raghunath Karve) Member (A)(Justice Umesh Chandra Srivastava) Member (J)</p> <p style="font-size: small; margin-top: 5px;">rathore/sb</p>

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

Dy No. 1721 of 2020

Sub Maj M Karunanidhi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Memo of appearance filed by Shri JN Mishra, Advocate on behalf of the respondents is taken on record.</p> <p style="text-align: center;">On the case being listed for hearing Shri Kaushlesh Pratap Singh, learned counsel for the applicant and Shri JN Mishra, learned counsel for the respondents are present.</p> <p style="text-align: center;">Learned counsel for the applicant is directed to remove defect.</p> <p style="text-align: center;">List on 10.12.2020.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore/sb</p>

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

Dy. No. 1619 of 2017 with M.A. No. 103 of 2020 Inre O.A. No. (Nil) of 2017

Ex JWO Bharat Prasad By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal		
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri V.P. Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Learned counsel for the applicant submits that he has filed an amendment application today in the registry, therefore, matter be listed alongwith that application.</p> <p style="text-align: center;">List on 15.01.2021 for orders.</p> <table style="width: 100%; margin-top: 20px;"><tr><td style="width: 50%; text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</td><td style="width: 50%; text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</td></tr></table> <p style="text-align: left; margin-top: 10px;">SB</p>	(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)
(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)		

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

M.A. No. 1874 of 2018 with M.A. No. 1875 of 2018 Inre O.A. No. 285 of 2013

Smt. Sunita Devi By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal		
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri V.P. Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Learned counsel for the applicant prays for and is granted three days time to deposit cost of Rs. 2000/-, imposed earlier for recall of order.</p> <p style="text-align: center;">List on 16.12.2020 for orders.</p> <table style="width: 100%; border: none; margin-top: 20px;"><tr><td style="width: 50%; text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</td><td style="width: 50%; text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</td></tr></table> <p style="text-align: left; margin-top: 10px;">SB</p>	(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)
(Vice Admiral Abhay Raghunath Karve) Member (A)	(Justice Umesh Chandra Srivastava) Member (J)		

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

O.A. No. 85 of 2019 with M.A. No. 362 of 2019 along with O.A. No. 64 of 2014
(Decided)

Ex Nb Sub Ram Prasad
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>On the case being taken up for hearing Shri V.P. Pandey, Ld. Counsel for the applicant and Shri Anurag Mishra, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the respondents submits that he wants to seek instruction in the matter, therefore, requisite time be given for the same.</p> <p>Let instructions be sought within four weeks and the Tribunal be apprised about the same by way of affidavit.</p> <p>List on 19.01.2021 for orders.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

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

O.A. No. 288 of 2019

Ex Hav (Hony Nb Sub) Mohd Harun Khan
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Shri Adesh Kumar Gupta, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">On the instructions received, learned counsel for the respondents submits that grievances raised in Original Application have already been addressed by the respondents and PCDA (Pension) Allahabad has issued instructions to Pension Disbursing Agencies for re-imburement of pension alongwith arrears.</p> <p style="text-align: center;">Respondents are directed to being aforesaid facts by way of affidavit within four weeks from today.</p> <p style="text-align: center;">List on 15.01.2021 for orders.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

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

O.A. No. 267 of 2017

Dinesh Chandra
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: justify;">On the case being taken up for hearing Shri Virat Anand Singh, Ld. Counsel for the applicant and Dr. Chet Narayan Singh, Ld. Counsel for the respondents are present.</p> <p style="text-align: justify;">Pleadings are complete and the case is ripe for hearing.</p> <p style="text-align: justify;">List on 12.03.2021 for final hearing.</p> <p style="text-align: justify;">On the date fixed, learned counsel for the respondents shall produce all original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: justify; margin-top: 20px;"> (Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) </p> <p>SB</p>

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

O.A. No. 21 of 2020 with M.A. No. 2045 of 2018

Ex Sub Subhash Chandra Sharma
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri Yashpal Singh, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents.</p> <p>2. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-</p> <p style="padding-left: 40px;">“(a) Issue/pass an order directing the respondents to consider case of the applicant for grant of the benefit of rounding off of disability pension with effect from 01.09.2012 and provide the same along with arrears and interest.</p> <p style="padding-left: 40px;">(b) Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.</p> <p style="padding-left: 40px;">(c) Allow this Original Application with cost.”</p> <p>3. Briefly stated facts of the case are that the applicant was enrolled in Indian Army on 05.01.1983 and was discharged with effect from 01.09.2012 in low medical category. The Release Medical Board identified his disability “DISBETES MELLITUS TYPE-II” and assessed Aggravated my military service at 20% for life. Accordingly, P.P.O. was issued by the Principal Controller of Defence Account (Pension), Allahabad. Presently the applicant is in receipt of 20% disability pension for life and has moved this Original Application for grant of benefit of rounding of disability pension w.e.f. 01.09.2012 from 20% to 50%.</p> <p>4. Learned counsel for the applicant argued that since the applicant is already in receipt of 20% disability element for life, therefore, in view of the Hon'ble Apex Court judgment in the case of <i>Union of India and Ors vs Ram Avtar & ors</i> (Civil appeal No. 418 of 2012 decided on 10th December 2014), the applicant is also entitled to benefit of rounding off of disability element @ 50% for life.</p> <p>5. On the other hand, though Ld. Counsel for the respondents conceded</p>

receipt of 20% disability pension by the applicant but contended that the applicant is not entitled to the benefit of rounding off of disability pension on the ground that the applicant's services were not cut short as he was not invalidated out on account of his disability. In the instant case the applicant was discharged from service on completion of his terms of engagement, therefore, the Ld. Counsel submitted that he is not eligible for the benefit of rounding off.

6. We have heard Ld. Counsel for the parties and perused the material placed on record. The only question which needs to be answered is whether applicant is entitled for the benefit of rounding off of his disability pension?

7. The law on the point of rounding off of disability pension is no more RES INTEGRA in view of the Hon'ble Supreme Court judgment in the case of **Union of India and Ors vs Ram Avtar & ors** (Civil appeal No 418 of 2012 decided on 10th December 2014) wherein the Hon'ble Apex Court has nodded in disapproval of the policy of the Government of India in granting the benefit of rounding off of disability pension only to the personnel who have been invalidated out of service and denying the same to the personnel who have retired on attaining the age of superannuation or on completion of their tenure of engagement. The relevant portion of the decision is excerpted below:-

“4. By the present set of appeals, the appellant (s) raise the question, whether or not, an individual, who has retired on attaining the age of superannuation or on completion of his tenure of engagement, if found to be suffering from some disability which is attributable to or aggravated by the military service, is entitled to be granted the benefit of rounding off of disability pension. The appellant(s) herein would contend that, on the basis of Circular No 1(2)/97/D (Pen-C) issued by the Ministry of Defence, Government of India, dated 31.01.2001, the aforesaid benefit is made available only to an Armed Forces Personnel who is invalidated out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.

5. We have heard Learned Counsel for the parties to the lis.

6. We do not see any error in the impugned judgment (s) and order(s) and therefore, all the appeals which pertain to the concept of rounding off of the disability pension are dismissed, with no order as to costs.

7. The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension.

8. This Court grants six weeks' time from today to the appellant(s) to comply with the orders and directions passed by us.”

8. In the instant case, there is no dispute that the applicant is in receipt of 20% disability element for life. This fact has also been accepted by the respondents and is also clearly indicated by the P.P.O. wiled with the Counter Affidavit. Thus, in view of the settled law on this matter, we are of the considered opinion that the applicant is entitled the benefit of rounding off.

9. It may be observed that claim for pension is based on continuing wrong and relief can be granted if such continuing wrong creates a continuing source

of injury. In the case of **Shiv Dass vs. Union of India**, reported in 2007 (3) SLR 445, para-9, Hon'ble Apex Court has observed:-

“In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years. The High Court did not examine whether on merit appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone.”

10. As observed in the preceding paragraphs, delay in filing the Original Application. has been condoned by this Tribunal vide order dated 13.01.2020, as such, in view of the decision of Hon'ble Supreme Court in the case of **Shiv Dass** (supra), we are of the considered view that benefit of rounding off of disability pension @20% for life to be rounded off to 50% for life may be made applicable to the applicant for three preceding years from the date of filing of the O.A.

11. In view of the above, the Original Application No. 21 of 2020 deserves to be allowed, hence allowed. The applicant is entitled to the benefit of rounding off of disability element from 20% for life to 50% for life with effect from three years prior to the date of filing of this Original Application. The date of filing of this Original Application is 20.12.2018. The respondents are directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 9% per annum till actual payment.

12. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

O.A. No. 203 of 2012

Smt Sandhya Rai
By Legal Practitioner for the Applicant

Applicant

Versus

Chief of Army Staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri Arun Kumar Sahu and Shri Parijaat Belaura, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on 12.01.2021 for physical hearing at 2.30 P.M.</p> <p style="text-align: center;">On the date fixed, learned counsel for the respondents shall produce all original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

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

O.A. No. 386 of 2018

Col Pankaj Mehra (Retd)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri K.K.S. Bisht, Ld. Counsel for the applicant and Shri Kaushik Chatterji, Ld. Counsel for the respondents.</p> <p>2. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-</p> <p style="padding-left: 40px;">“(a) Issue/pass an order or direction to the respondents to quash/set-aside the arbitrary and illegal order passed by respondent No. 3 vide letter No. B/40431/BB/2016/AG/PS-4 (Imp-I) dated 04 Nov 2016 (Annexure No. A-1 (iii) rejecting the benefit of rounding off of disability pension of the applicant.</p> <p style="padding-left: 40px;">(b) Issue/pass an order or direction of appropriate nature to the respondents to grant the applicant benefits of “rounding off” of the disability pension from 30% for life to 50% for life with effect from 01.08.2008 as provided vide Government of India, Ministry of Defence letter No. 1(2)/97/D (Pen-C) dated 31-01-2001 (Annexure No. A-1(i) supported by the position held by the Hon'ble Supreme Court.</p> <p style="padding-left: 40px;">(c) Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.</p> <p style="padding-left: 40px;">(d) Allow this application with costs.”</p> <p>3. Briefly stated facts of the case are that the applicant was commissioned in Indian Army on 13.06.1976 and retired from service with effect from 01.08.2008 in low medical category on reaching the age of superannuation. The Release Medical Board identified his disability “PRIMARY HYPERTENSION” and assessed Aggravated by military service at 30% for life. Accordingly, P.P.O. was issued by the Principal Controller of Defence Account (Pension), Allahabad. Presently the applicant is in receipt of 30% disability pension for life and has moved this Original Application for grant of benefit of rounding of disability pension w.e.f. 01.08.2008 from 30% to 50%.</p>

4. Learned counsel for the applicant argued that since the applicant is already in receipt of 30% disability element for life, therefore, in view of the Hon'ble Apex Court judgment in the case of **Union of India and Ors vs Ram Avtar & ors** (Civil appeal No. 418 of 2012 decided on 10th December 2014), the applicant is also entitled to benefit of rounding off of disability element @ 50% for life.

5. On the other hand, though Ld. Counsel for the respondents conceded receipt of 30% disability pension by the applicant but contended that the applicant is not entitled to the benefit of rounding off of disability pension on the ground that the applicant's services were not cut short as he was not invalidated out on account of his disability. In the instant case the applicant was retired from service on reaching the age of superannuation, therefore, the Ld. Counsel submitted that he is not eligible for the benefit of rounding off.

6. We have heard Ld. Counsel for the parties and perused the material placed on record. The only question which needs to be answered is whether applicant is entitled for the benefit of rounding off of his disability pension?

7. The law on the point of rounding off of disability pension is no more RES INTEGRA in view of the Hon'ble Supreme Court judgment in the case of **Union of India and Ors vs Ram Avtar & ors** (Civil appeal No 418 of 2012 decided on 10th December 2014) wherein the Hon'ble Apex Court has nodded in disapproval of the policy of the Government of India in granting the benefit of rounding off of disability pension only to the personnel who have been invalidated out of service and denying the same to the personnel who have retired on attaining the age of superannuation or on completion of their tenure of engagement. The relevant portion of the decision is excerpted below:-

"4. By the present set of appeals, the appellant (s) raise the question, whether or not, an individual, who has retired on attaining the age of superannuation or on completion of his tenure of engagement, if found to be suffering from some disability which is attributable to or aggravated by the military service, is entitled to be granted the benefit of rounding off of disability pension. The appellant(s) herein would contend that, on the basis of Circular No 1(2)/97/D (Pen-C) issued by the Ministry of Defence, Government of India, dated 31.01.2001, the aforesaid benefit is made available only to an Armed Forces Personnel who is invalidated out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.

5. We have heard Learned Counsel for the parties to the lis.

6. We do not see any error in the impugned judgment (s) and order(s) and therefore, all the appeals which pertain to the concept of rounding off of the disability pension are dismissed, with no order as to costs.

7. The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension.

8. This Court grants six weeks' time from today to the appellant(s) to comply with the orders and directions passed by us."

8. In the instant case, there is no dispute that the applicant is in receipt of

30% disability element for life. This fact has also been accepted by the respondents and is also clearly indicated by the P.P.O. wiled with the Counter Affidavit. Thus, in view of the settled law on this matter, we are of the considered opinion that the applicant is entitled the benefit of rounding off.

9. It may be observed that claim for pension is based on continuing wrong and relief can be granted if such continuing wrong creates a continuing source of injury. In the case of **Shiv Dass vs. Union of India**, reported in 2007 (3) SLR 445, para-9, Hon'ble Apex Court has observed:-

“In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years. The High Court did not examine whether on merit appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone.”

10. As observed in the preceding paragraphs, delay in filing the Original Application. has been condoned by this Tribunal vide order dated 20.08.2018, as such, in view of the decision of Hon'ble Supreme Court in the case of **Shiv Dass** (supra), we are of the considered view that benefit of rounding off of disability pension @30% for life to be rounded off to 50% for life may be made applicable to the applicant for three preceding years from the date of filing of the O.A.

11. In view of the above, the Original Application No. 386 of 2018 deserves to be allowed, hence allowed. The applicant is entitled to the benefit of rounding off of disability element from 30% for life to 50% for life with effect from three years prior to the date of filing of this Original Application. The date of filing of this Original Application is 08.03.2018. The respondents are directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 9% per annum till actual payment.

12. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

O.A. No. 497 of 2018

Mistar Singh

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p>07.12.2020 <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Shailendra Kumar Singh and Shri Ashish Kumar Singh, Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">List on 04.03.2021 for final hearing.</p> <p style="text-align: center;">On the date fixed, learned counsel for the respondents shall produce all original documents pertaining to the case for perusal of the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>SB</p>

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

O.A. No. 560 of 2018

Nagendra Nath Mishra By Legal Practitioner for the Applicant	Versus	Applicant
Union of India & Others By Legal Practitioner for Respondents		Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri V.P. Pandey, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Heard.</p> <p style="text-align: center;">Order is reserved.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

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

O.A. No. 603 of 2018

Maujiri Goswami

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Virendra Kumar Gupta, Ld. Counsel for the applicant and Shri Kaushik Chatterji, Ld. Counsel for the respondents are present.</p> <p style="text-align: center;">Heard.</p> <p style="text-align: center;">Order is reserved.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

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

O.A. No. 15 of 2019

Anirudh Pratap Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri Parijaat Belaura, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents.</p> <p>2. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-</p> <p style="padding-left: 40px;">“(I) To round off the disability pension from 20% to 50% as per GOI, MoD letter 31.01.2001 w.e.f. 01.01.1996.</p> <p style="padding-left: 40px;">(II) To pay arrear of difference of disability pension along with 12% interest from the date of his release i.e. 01.01.2006 till it is actually paid.</p> <p style="padding-left: 40px;">(III) Any other suitable relief this Hon'ble Court deems fit and proper may also be granted.”</p> <p>3. Briefly stated facts of the case are that the applicant was enrolled in Indian Army on 27.01.1976 and was discharged from service on 11.02.1993 (AN) in low medical category being not upto the prescribed military physical standard. The Release Medical Board identified his disability “ROTATIONAL INSTABILITY OF RT KNEE” and assessed it @ 20% for two years, attributable to military service. Accordingly, P.P.O. was issued by the Principal Controller of Defence Account (Pension), Allahabad. Thereafter, Re-Survey Medical Board (RSMB) was held on 20.06.1995 wherein the disability has been assessed @20% for five years. Accordingly, P.P.O. was issued by the Principal Controller of Defence Account (Pension), Allahabad. After five years again RSMB was carried out and disability was regarded as attributable to military service and assessed @ 20% for life. Presently the applicant is in receipt of 20% disability pension for life and has moved this Original Application for grant of benefit of rounding off of disability pension from 20% to 50% for life.</p> <p>4. Ld. Counsel for the applicant argued that since the applicant is already in receipt of 20% disability element for life, therefore, in view of the Hon'ble Apex Court judgment in the case of <i>Union of India and Ors vs Ram Avtar &</i></p>

ors (Civil appeal No. 418 of 2012 decided on 10th December 2014), the applicant is also entitled to benefit of rounding off of disability element @ 50% for life.

5. On the other hand, though Ld. Counsel for the respondents conceded receipt of 20% disability pension by the applicant and submitted that, as per Armoured Corps Records letter No. 1057111M/DP/RO/Pen, dated 18.11.2017, applicant was asked to submit some documents required as per Para 3 of Govt. of India, Ministry of Defence letter No. 12(16)2009/D (Pen/Policy) dated 15.09.2014, being mandatory documents as per PCDA (Pension) Allahabad Circular No. 529, dated 13.10.2014, which have not been received so far from the applicant. Hence, processing of his claim for grant of benefit of rounding off is held up for want of the documents. He further submitted that after the receipt of mandatory documents claim of the applicant will be processed immediately to PCDA (P) Allahabad for notification of the PPO for rounding off benefits of disability element from 20% to 50% for life.

6. The law on the point of rounding off of disability pension is no more RES INTEGRA in view of the Hon'ble Supreme Court judgment in the case of **Union of India and Ors vs Ram Avtar & ors** (Civil appeal No 418 of 2012 decided on 10th December 2014) wherein the Hon'ble Apex Court has noded in disapproval of the policy of the Government of India in granting the benefit of rounding off of disability pension only to the personnel who have been invalidated out of service and denying the same to the personnel who have retired on attaining the age of superannuation or on completion of their tenure of engagement. The relevant portion of the decision is excerpted below:-

“4. By the present set of appeals, the appellant (s) raise the question, whether or not, an individual, who has retired on attaining the age of superannuation or on completion of his tenure of engagement, if found to be suffering from some disability which is attributable to or aggravated by the military service, is entitled to be granted the benefit of rounding off of disability pension. The appellant(s) herein would contend that, on the basis of Circular No 1(2)/97/D (Pen-C) issued by the Ministry of Defence, Government of India, dated 31.01.2001, the aforesaid benefit is made available only to an Armed Forces Personnel who is invalidated out of service, and not to any other category of Armed Forces Personnel mentioned hereinabove.

5. We have heard Learned Counsel for the parties to the lis.

6. We do not see any error in the impugned judgment (s) and order(s) and therefore, all the appeals which pertain to the concept of rounding off of the disability pension are dismissed, with no order as to costs.

7. The dismissal of these matters will be taken note of by the High Courts as well as by the Tribunals in granting appropriate relief to the pensioners before them, if any, who are getting or are entitled to the disability pension.

8. This Court grants six weeks' time from today to the appellant(s) to comply with the orders and directions passed by us.”

7. In the instant case, there is no dispute that applicant is in receipt of 20% disability element for life as this fact has been accepted by the respondents. In view of the settled law on this matter, we are of the considered opinion that the applicant is entitled to the benefit of rounding off to 50% for life with effect from 01.01.2006, however, arrears shall be restricted to three years only from the date original application is filed.

8. In view of the above, the Original Application No. 15 of 2019 is allowed. The applicant is held entitled to the benefit of rounding off of disability element from 20% for life to 50% for life with effect from three years prior to the date of filing of Original Application. The date of filing of Original Application is 27.02.2018. The respondents are directed to give effect to this order within a period of four months from the date applicant submits mandatory documents alongwith certified copy of this order. Defaults will invite interest @ 9% per annum from the due date till actual payment.

9. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

SB

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

EX.A. No. 12 of 2019 Inre O.A. No. 46 of 2017

Maj (Retd) B.S. Rawat Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2020</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri V.P. Pandey, Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Respondents are directed to make compliance of order under execution within four weeks without fail.</p> <p style="text-align: center;">List on 15.01.2021 for orders.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>