Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.1 (E. Court)
O.A. No. 731 of 2020 along with M.A. No. 443 of 2020

Maj. Vinay Sharma (Retd.) Applicant
By Legal Practitioner for the Applicant

Versus

Secretary GOI MOD & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri Namit Sharma, Advocate filed power today in Court on behalf of the respondents which is taken on record. Heard Col. Y.R. Sharma (Retd.), Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents. Matter needs adjudication. Admit. Issue notice to the respondents. Shri Namit Sharma, Ld. Counsel for the respondents has accepted notice on behalf of respondents. He seeks and is allowed five weeks time to file Counter Affidavit. List on **10.02.2021.** Ld. Counsel for the applicant submitted that signal, Annexure – 1, issued by the respondents attaching applicant to Special Unattached List and thereby throwing him on road without job, pay and allowance being against natural justice and, Para 7 of Government of India, Ministry of Defence letter No. 56986/TA-4/154/B/D (GS-VI) dated 19.01.1985, Annexure A-8 and Para 2(b) of letter No. 66177/Med/TA-4 dated 19.03.2020 of Annexure A-10, is unjust, illegal and unconstitutional. Ld. Counsel for the respondents, while seeking five weeks time to file detailed objection submitted that Original Application being filed on surmises, conjectures and apprehensions on account of alleged oral communication between the applicant and the Commanding Officer of the Unit is premature and therefore not maintainable. He further submitted that if interim relief granted, it would amount allowing the Original Application. Having heard the submissions and keeping in view the facts and circumstances of the case, we direct respondents to file objection within five weeks and thereafter matter be listed on the date fixed. i.e. **10.02.2021** for hearing. In the meantime, in view of Para 7 of Government of India, Ministry of Defence letter dated 19.01.1985, respondents shall ensure paying pay and allowances to applicant as usual. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

M.A. No. 441 of 2020 with M.A. No. 442 of 2020 Inre : T.A. no. 65 of 2016

Ex. L. Hav. Surendra Vavu 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri Yogesh Kesarwani, Advocate filed power today in Court on behalf of the respondents which is taken on record. Heard Shri Anand Yadav, Advocate holding brief of Shri S.G. Singh, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents. Shri Anand Yadav, Advocate submits that T.A. was dismissed on 09.04.2019. M.A. No. 462 of 2019 filed for recalling the order dated 09.04.2019 was allowed on 13.05.2019 subject to payment of Rs.1,000/- as cost, and the said cost being not paid this order was recalled on 09.10.2020, against which present Misc. Application has been filed along with application for condonation of delay. Considering the facts and circumstances of the case, delay in filing application is condoned and recall application is allowed subject to cost Rs.1,000/- as cost. Applicant is directed to deposit total cost Rs.2,000/- within a week from today failing which order passed today shall stand withdrawn without any reference. On cost being deposited, let T.A. be restored to its number and be listed on **14.01.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

M.A. No. 1551 of 2018 Inre : O.A. No. (Nil) of 2018

Ex. Sgt. Pius Kumar Chaubey 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Rishabh Tripathi, Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents are present. Shri Rishab Tripathi, Ld. Counsel for the applicant submitted that Shri S.D. Tripathi, the earlier Counsel of applicant is no more and, as he has to seek some instructions from his client in regard to this case, case may be adjourned today. In view of above, list on **22.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

M.A. No. 1901 of 2018 Inre : O.A. No. (Nil) of 2018

Ex. Rect./NA Hari Om 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri Vinay Pandey, Advocate filed power today in Court on behalf of the applicant which is taken on record. Heard Shri Vinay Pandey, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents. There is a delay of 01 year, 01 month and 12 days in filing Original Application. The submission of Ld. Counsel for the applicant is that delay in filing Original Application is not deliberate or intentional, but for the reasons stated in affidavit filed in support of application. Shri Yogesh Kesarwani, Ld. Counsel for the respondents has strongly opposed on the ground that explanation offered for condonation of delay is not satisfactory. Considering the facts and circumstances of the case, we condone the delay. Let Original Application be registered. **O.A. No. 733 of 2020** It is a fit case for adjudication. Admit. Shri Yogesh Kesarwani, Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. He is also directed to bring voluntarily discharge application of the applicant on record by way of affidavit as already ordered on 09.05.2019. Rejoinder Affidavit, if any, may be filed within two weeks after filing of Counter Affidavit. List the matter before Registrar on **05.03.2021** for exchange of pleadings. List the matter before Tribunal on **22.03.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 445 of 2019 along with O.A. No. 361 of 2019 (Decided)

Col. R.K. Gupta 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents is present. Issue notice to applicant returnable at an early date for engaging his Counsel. List on **03.02.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

T.A. No. 3 of 2020 with M.A. No. 436 of 2020

Ex. N. Jitendra Kumar Petitioner
By Legal Practitioner for the Petitoner

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri R.C. Shukla, Advocate filed power today in Court on behalf of the respondents which is taken on record. On the case being taken up for hearing Shri R.C. Shukla, Ld. Counsel for the respondents is present. This case has been received by transfer from Armed Forces Tribunal, Principal Bench, New Delhi. Issue notice to the applicant informing him regarding transfer of the case and also the date of listing. List on **09.02.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 176 of 2018 with M.A. no. 1495 of 2018
Along with
O.A. No. 542 of 2018

Rect. Pinku Kumar 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing none appears on behalf of the to represent his cause. Shri G.S. Sikarwar, Ld. Counsel for the respondents is present. Despite several opportunities the applicant has not filed Rejoinder Affidavit, hence opportunity to file Rejoinder Affidavit is closed. List on **24.05.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 542 of 2018
Along with
O.A. No. 176 of 2018 with M.A. No. 1495 of 2018

Rect. Pinku Kumar 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing none appears on behalf of the applicant to represent his cause. Shri R.K.S. Chauhan, Ld. Counsel for the respondents are present. Despite several opportunities the applicant has not filed Rejoinder Affidavit, hence opportunity to file Rejoinder Affidavit is closed. List on **24.05.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 202 of 2018 Inre : O.A. No. 314 of 2018

Krishna Bihari Mishra 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Arun Kumar and Col. R.A. Pandey (Retd.), Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present. Shri Rajiv Tiwari, Senior Accounts Officer, Representative of PCDA (P), Allahabad is also present and he submits that Government sanction in the matter has been received and also that after the receipt of records P.P.O. would be issued. We have gone through the order dated 12.07.2018 passed in O.A. No. 314 of 2018 and find that so for this order is concerned, the same has been complied with. Accordingly, Execution Application stands **disposed off**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 583 of 2019

Ex. Sep. Bijander Pal 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Ashok Singh, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents are present. Capt. Indu, Departmental Representative is also present and she submits that application may be dismissed as statutory appeal dated 21.02.2019 preferred by the applicant has been disposed off on 12.04.2019. In regard to this, Ld. Counsel for the applicant submitted that applicant has not received the copy of letter rejecting the Appeal. Original Application is **dismissed** being infructuous with direction to respondents to serve copy of letter deciding the Statutory Appeal to the applicant within two weeks. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 364 of 2018
Along with
T.A. No. 38 of 2016 (Decided)

Ex. Sepoy (SKT) Kirpal Singh 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Rohit Kumar, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents are present. Shri Rohit Kumar, Ld. Counsel for the applicant submits that Policy in terms of order dated 14.11.2018 has been submitted by way of Supplementary Affidavit. List on **17.03.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 46 of 2019 Inre : T.A. No. 69 of 2012

Diwan 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Col. B.P. Singh (Retd.), Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present. Col. B.P. Singh (Retd.), Ld. Counsel for the applicant submitted that he has sent the soft copy of impleadment application on AFT's mail just yesterday. However, no such copy has been received. Applicant is directed to submit hard copy of the impleadment application within three days positively, otherwise assuming that order under execution has been complied with, the Execution Application shall be disposed off. List on **18.12.2020** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 206 of 2019 with M.A. No. 536 of 2019

Smt. Savitri Chand 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Col. B.P. Singh (Retd.), Ld. Counsel for the applicant and Dr. Gyan Singh, Ld. Counsel for the respondents are present. **M.A. No. 536 of 2019** The only objection raised by the Ld. Counsel for the respondents is that no legible copy of substitution application has been made available to him. For the reasons stated in affidavit filed in support of substitution application being genuine, substitution application is **allowed**. Let amendment be incorporated within three days. **O.A. No. 206 of 2019** List on **22.01.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Ex. A. No. 221 of 2018 with M.A. No. 742 of 2019 Inre : O.A. No. 79 of 2017

Dharmendra Pratap 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing none appears on behalf of the applicant to represent his cause. Dr. Gyan Singh, Ld. Counsel for the respondents is present. Despite time being taken several time to file objection against the affidavit of compliance, no such objection has been filed. We have gone through affidavit of compliance and we do not see any infirmity in it. Accordingly, Execution Application is **dismissed** being order complied with. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 128 of 2019

Hira 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Girish Tiwari and Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Pleadings are complete and the case is ripe for hearing. List on **18.03.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

M.A. No. 950 of 2019 Inre : O.A. No. (Nil) of 2019

Ex. Nk. Shyam Pal 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Shri Ram Sharan Awasthi, Advocate filed power today in Court on behalf of the respondents which is taken on record. Heard Shri K.K. Misra, Ld. Counsel for the applicant and Shri Ram Sharan Awasthi, Ld. Counsel for the respondents. There is a delay of 13 years, 05 months and 04 days in filing Original Application. . The submission of Ld. Counsel for the applicant is that bar of limitation is not applicable in pensionary matters. Further submission is that delay, if any, in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application. Ld. Counsel for the respondents has vehemently opposed the prayer on the ground that explanation offered for condonation of delay is not satisfactory. Considering that bar of limitation is not applicable in pensionary matters and cause shown is sufficient, we **condone** the delay, if any. Let Original Application be registered. **O.A. No. 734 of 2020** It is a fit case for adjudication. Admit. 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. List the matter before Registrar on **02.03.2021** for exchange of pleadings. List the matter before Tribunal on **19.03.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 171 of 2020

Smt. Suman Devi W/o Late Ex. Lance Nk. Ramesh Chandra 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri K.K. Misra, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents. Shri K.K. Misra, Ld. Counsel for the applicant submitted that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application. Ld. Counsel for the respondents has vehemently opposed the prayer on the premise that delay has not been properly and satisfactorily explained. Upon hearing submission of Ld. Counsel for the parties, we find that cause shown is sufficient. Accordingly, delay is **condoned**. It is a fit case for adjudication. Admit. Shri Ashish Kumar Singh, Ld. Counsel for the respondents accepted notice on behalf of the respondents and he seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks thereafter. List the matter before Registrar on **02.03.2021** for exchange of pleadings. List the matter before Tribunal on **22.03.2021.** **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

O.A. No. 595 of 2018

Awadhesh Pandey 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Parijaat Belaura, Ld. Counsel for the applicant and Dr. S.N. Pandey, Ld. Counsel for the respondents are present. Despite several opportunities the applicant has not filed Rejoinder Affidavit, hence, opportunity to file Rejoinder Affidavit is closed. Connect with O.A. No. 684 of 2020 Hony. Nb. Sub. Swamy Nath Mishra Versus Union of India and Others. List on **27.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

M.A. No. 152 of 2020 Inre : O.A. No. (Nil) of 2020

Ex. Sep. Jagdish Babu 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri K.P. Datta, Ld. Counsel for the applicant and Ms. Appoli Srivastava, Ld. Counsel for the respondents. There is a delay of 27 years, 09 months and 22 days in filing Original application. . Shri K.P. Datta, Ld. Counsel for the applicant submitted that it is a pensionary matter in which bar of limitation is not applicable. He further submits that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application. Ms. Appoli Srivastava, learned counsel for the respondents has vehemently opposed the prayer and submitted that delay has not been properly and satisfactorily explained. . 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, we **condone** the delay. Let Original Application be registered. **O.A. No. 686 of 2020** It is a fit case for adjudication. Admit. 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. List the matter before Registrar on **03.03.2021** for exchange of pleadings. List the matter before Tribunal on **23.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

M.A. No. 1291 of 2018 with M.A. No. 506 of 2019 Inre : O.A. No. (Nil) of 2018

Rect. Rajat Yadav 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Ms. Appoli Srivastava, Ld. Counsel for the respondents is present. None appears to present the case of the applicant, nor is there any mention made on his behalf to pass over or adjourn the case. Accordingly, we **dismiss** delay condonation application for non prosecution. Original Application being time barred is also **dismissed**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

M.A. No. 191 of 2020 Inre : O.A. No. (Nil) of 2020

Ex. Rect. Ram Babu 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents are present. Ld. Counsel for the applicant prays for and is allowed two weeks further time to file reply to objecton filed on delay condonation application. List on **22.01.2021** for hearing on delay condonation application. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

M.A. No. 23 of 2020 Inre : O.A. No. (Nil) of 2020

Ex. Sub. (Hony. Sub. Maj.) Hari Ram 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents. There is a delay of 06 years, 02 months and 07 days in filing Original Application. Ld. Counsel for the applicant submitted that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application. Ld. Counsel for the respondents has vehemently opposed on the premise that delay has not been properly and satisfactorily explained. Having heard the submissions of Ld. Counsel for both sides and considering the facts and circumstances of the case, we find that cause shown is genuine and sufficient. Accordingly, we **condone** the delay. Let Original Application be registered. **O.A. No. 729 of 2020** It is a fit case for adjudication. Admit. Shri Yogesh Kesarwani, Ld. Counsel for the respondents has accepted notice on behalf of respondents. He submits that he has already filed Counter Affidavit which may be taken on record. Accordingly, Counter Affidavit filed by the respondents is taken on record. Let Rejoinder Affidavit, if any, may be filed within two weeks. List on **21.05.2021** for final hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** AKD/-

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

Court No. 1

O.A. No. 468 of 2019

Ex Sgt Kamal Narain Dubey Applicant
By Legal Practitioner for Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** O.A. No. 468 of 2019, Ex Sgt Kamal Narain Dubey vs. Union of India and others is dismissed. For order, see our judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** ukt

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

T. A. No 1 of 2020

Ex Cpl Vinay Mohan 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Wg Cdr SN Dwivedi, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present. Objection on maintainability and reply thereto filed by counsels is taken on record. List on **07.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

Ex. A. No 123 of 2019 Inre O.A. No 171 of 2019

Ex Nk Shit Basant Yadav 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh Ld. Counsel for the applicant and Shri GS Sikarwar, Ld. Counsel for the respondents are present. Learned counsel for the respondents prays for and is granted two weeks time to file compliance report. List on **13.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

Ex. A No 24 of 2020 Inre O.A. No 126 of 2019

Ex Sub Raj Narain Tiwari 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Yashpal Singh, Ld. Counsel for the applicant and Shri RKS Chauhan, Ld. Counsel for the respondents are present. Learned counsel for the respondents prays for and is granted two weeks time to file compliance report. List on **15.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

O.A. No 468 of 2019

Kamal Narain Dubey 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri KK Mishra, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents. O.A. No. 468 of 2019, Kamal Narain Dubey vs. Union of India and others is dismissed. For order, see our judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

O.A. (A) No 474 of 2018

Mukesh Kumar through his wife Smt Pooja Devi 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. List on **12.02.2021** for physical hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

O.A. (A) No 39 of 2017 with M.A. No 1237 of 2018

Smt Sunita Singh W/o Abhishek Kumar Singh (in custody) 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Dr. Gyan Singh, Ld. Counsel for the respondents. Argument continued. List on **15.12.2020** for further hearing. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** UKT/-

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

O.A. No. 246 of 2019

Ram Vilas 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** 1. Heard Shri Girish Tiwari and Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents. 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:- (i) That this Hon'ble Tribunal may kindly be pleased to direct the opposite parties to grant the benefit of broad banding of disability pension to the applicant w.e.f. 01.01.1981, in the interest of justice. (ii) That this Hon'ble Tribunal may kindly be awarded the cost of Rs.20,20,000/- (Rupees Twenty Lac and Twenty Thousand only) to the applicant against the opposite parties. (iii) Any other beneficial relief which this Hon'ble Tribunal deems fit and reasonable be also awarded to the applicant against the respondents. 3. Briefly stated facts of the case are that the applicant was enrolled in Indian Army on 07.12.1965 and was discharged from service on 31.12.1980 (AN) in low medical category under Rule 13(3) Item III (i) of Army Rules, 1954 on completion of his terms of engagement. The Release Medical Board identified his disabilities "**FRACTURE CLAVICLE (RT) AND OSTEO ARTHRITIS LT KNEE**" and assessed it @ 30% and 10% respectively, composite @40% for two years, attributable to and aggravated by military service respectively. Accordingly, P.P.O. was issued by the Principal Controller of Defence Account (Pension), Allahabad. Thereafter, Re-Survey Medical Board (RSMB) was held on 03.10.1982 and 04.10.1984 wherein the disabilities have been assessed @40% for two years respectively. Accordingly, P.P.O.s were issued by the Principal Controller of Defence

Account (Pension), Allahabad. Again RSMB was carried out on 10.10.1986 and disabilities were regarded as attributable to and aggravated by military service and assessed @40% for life. Presently the applicant is in receipt of 40% disability pension for life and has moved this Original Application for grant of benefit of rounding off of disability pension from 40% to 50% for life.

4. Ld. Counsel for the applicant argued that since the applicant is already in receipt of 40% 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 40% 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 invalided 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 claimed that he is not eligible for the benefit of rounding off.

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 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 invalided 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 40% 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. 246 of 2019 is **allowed**. The applicant is held entitled to the benefit of rounding off of disability element from 40% 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 21.03.2018. 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)

AKD/-

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

O.A. No. 66 of 2019

Ex Sgt Amritansh Pratap Singh Rathore 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Ms. Nisha Pandey, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present. Affidavit filed by learned counsel for the applicant is taken on record. Learned counsel for the applicant submits that Original Application may be dismissed being infructuous as after filing this Original Application not only applicant's grievances have been addressed but PPO has also been issued. In view of above, Original Application is **dismissed** being infructuous. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 68 of 2019 Inre Ex.A. No. 08 of 2018 Inre O.A. No. 445 of 2012

Man 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Om Prakash Kushwaha, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Learned counsel for the respondents seeks and is allowed two weeks further time to file affidavit of compliance. List on **12.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

M.A. No. 13 of 2020 Inre O.A. No. (Nil) of 2020

Ex Rfn Dhirendra Narayan Giri 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri K.P. Datta, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Objection to delay condonation application filed by the respondents is taken on record. Shri Om Prakash Kushwaha, learned counsel for the applicant is reported to be ill. List on **22.01.2021** by which date applicant may file reply, if any. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

M.A. No. 2090 of 2016 Inre O.A. No. 337 of 2011

Smt. Pyari Gurung 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Dr. Gyan Singh, Ld. Counsel for the respondents are present. Respondents have not yet filed translated copy of Nepali Govt. report regarding applicant's eligibility of family pension despite inquiry allegedly completed in the year 2016. Let complete translated copy of report be filed within four weeks positively. List on **22.02.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 112 of 2019

Ex Hav Dharmendra 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** 1. Heard Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri R.C. Shukla, Ld. Counsel for the respondents. 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:- "A. To issue/pass an order or directions to set-aside/quash the letter dated 22.02.2018 passed by respondents. B. To issue/pass an order or directions to the respondents to grant of disability element of disability pension @ 15-19% and benefit of "Rounding off" he disability pension @ 15-19% to 50% from the date of discharge i.e. 31.01.2018 in light of Hon'ble Apex Court case i.e. "Sukhvinder Singh vs. Union of India"(Supra). C. To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant. D. To allow the original application with costs." 3. Brief facts of the case giving rise to this application are that applicant was enrolled in 111 Infantry Battalion (Territorial Army) on 31.01.1998 and discharged from service on 31.01.2018 on completion of terms of engagement under TA Rules 14 (b) (iv) in low medical category due to disability '**RENITIS PIGMENTOSA BOTH EYES**' assessed @ 15-19 % for life and considered it

	neither attributable to nor aggravated (NANA) by service. Disability pension claim was rejected vide order dated 22.02.2018 and thereafter applicant preferred 1st appeal dated 10.06.2018 which was also rejected vide order dated 21.01.2019. It is in this perspective that applicant has filed this Original Application. 4. Learned Counsel for the applicant submitted that applicant was enrolled in the Territorial Army in medically and physically fit condition and there was no note in his service documents with regard to suffering from any disease prior to joining, therefore any disability suffered by applicant after joining the service should be considered as attributable to or aggravated by military service and he should be entitled to disability pension. Learned counsel for the applicant also placed reliance on the judgment of the Hon'ble Apex Court in the case of ***Sukhvinder Singh vs. Union of India*** and pleaded that applicant is entitled for disability pension and also its rounding off of to 50% in terms of judgment of the Hon'ble Apex Court in the case of ***Union of India vs. Ram Avtar.*** 5. On the other hand, learned counsel for the respondents opposed the submissions of learned counsel for the applicant and submitted that since the assessment of the disability element is 15-19% i.e. below 20%, therefore, condition for grant of disability element of pension does not fulfil in terms of Rule 173 of Pension Regulation for the Army 1961 (Part-I) and, therefore, the competent authority has rightly denied the benefit of disability element of pension to applicant. He pleaded for dismissal of O.A. 6. We have given our considerable thoughts to both sides and have carefully perused the records. The question in front of us is straight; whether the disability is attributable to/aggravated by military service and, if so, whether it is above or below 20%? 7. As per Rule 173 of Pension Regulations for the Army, 1961 (Part-I), disability element of pension is eligible only when the disability is assessed at 20% or more and accepted as attributable to or aggravated by military service. Since, applicant's disability element is 15-19% for life, applicant does not fulfil the requirement of Rule 173 of Pension Regulations for the Army, 1961 (Part-I).

8. The case of applicant does not fall within the category of invalidation in which circumstance he would have become eligible for grant of disability element of pension @ 20% (rounded off to 50%) in terms of reported judgment in the case of ***Sukhwinder Singh vs Union of India & Ors***, (2014) STPL (WEB) 468 where the operative part of the order reads:-

> "*9. We are of the persuasion, therefore, that firstly, any disability not recorded at the time of recruitment must be presumed to have been caused subsequently and unless proved to the contrary to be a consequence of military service. The benefit of doubt is rightly extended in favour of the member of the Armed Forces; any other conclusion would be tantamount to granting a premium to the Recruitment Medical Board for their own negligence. Secondly, the morale of the Armed Forces requires absolute and undiluted protection and if an injury leads to loss of service without any recompense, this morale would be severely undermined. Thirdly, there appears to be no provisions authorising the discharge or invaliding out of service where the disability is below twenty per cent and seems to us to be logically so. Fourthly, wherever a member of the Armed Forces is invalided out of service, it perforce has to be assumed that his disability was found to be above twenty per cent. Fifthly, as per the extant Rules/Regulations, a disability leading to invaliding out of service would attract the grant of fifty per cent disability pension*."

9. Further in terms of Hon'ble Apex Court judgment in the case of ***Bachchan Singh vs Union of India & Ors***, Civil Appeal Dy No. 2259 of 2012 decided on 04th September, 2019 wherein their Lordships have held as under:-

> "..... After examining the material on record and appreciating the submissions made on behalf of the parties, we are unable to agree with the submissions made by the learned Additional Solicitor General that the disability of the appellant is not attributable to Air Force Service. The appellant worked in the Air Force for a period of 30 years. He was working as a flight Engineer and was travelling on non pressurized aircrafts. Therefore, it cannot be said that his health problem is not attributable to Air Force Service. <u>However, we cannot find fault with the opinion of the Medical Board that the disability is less than 20%.</u>"
>
> (underlined by us)

10. In light of the above judgment, inference may be drawn that Medical Board is a duly constituted body and findings of the board should be given due credence.

11. In addition to above, a bare reading of para 53 (a) of Pension Regulations makes it abundantly clear that an individual being assessed disability below 20% is not entitled to disability element irrespective of disability being attributable to or aggravated by the military service. The Hon'ble Supreme Court in Civil Appeal No 10870 of 2018 ***Union of India & Ors vs***

Wing Commander SP Rathore**,** has made it clear vide order dated 11.12.2019 that disability element is inadmissible when disability percentage is below 20%. Para 9 of the aforesaid judgment being relevant is quoted as under:-

> *"9. As pointed out above, both Regulation 37 (a) and Para 8.2 clearly provide that the disability element is not admissible if the disability is less than 20%. In that view of the matter, the question of rounding off would not apply if the disability is less than 20%. If a person is not entitled to the disability pension, there would be no question of rounding off."*

12. In view of the discussions made above, O.A. lacks merit and same is accordingly **dismissed.**

13. Misc. application, if any, pending for disposal also stands disposed of.

14. 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)

M.A. No. 1914 of 2018 Inre O.A. No. (Nil) of 2018

Hony Nb Sub Vijender Pal 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Parijaat Belaura, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. The Original Application has been filed with delay of 08 years, 11 months & 19 days. 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 Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application. 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. Considering that in pensionary matters bar of limitation is not applicable and cause shown for the delay, if any, is sufficient, delay is liable to be condoned. Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly. Let Original Application be registered. **O.A. No. 735 of 2020** It is a fit case for adjudication. Admit. Connect with O.A. No. 684 of 2020 Swamy Nath Mishra (HNS case) and list on **27.01.2021.** In the meantime, counter affidavit may be filed by the respondents. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

M.A. No. 357 of 2019 Inre O.A. No. (Nil) of 2019

Ex Nk Kamal 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Prabhat Kumar Tripathi, Ld. Counsel for the applicant and Shri Rajiv Pandey, Ld. Counsel for the respondents are present. There is delay of 01 year, 02 months and 24 days in filing Original Application. It is submitted by learned counsel for the applicant that delay in filing application is not intentional rather for the reasons stated in affidavit filed in support of application. Ld. Counsel for the respondents has vehemently opposed the prayer saying delay has not been properly and satisfactorily explained. Upon hearing submissions of both sides and considering the facts and circumstances of the case we find that cause shown is sufficient. Accordingly, we condone the delay. Let Original Application be registered. **O.A. No. 736 of 2020** It is a fit case for adjudication. Admit. 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. List on **05.03.2021** before the Registrar for exchange of pleadings. List before the Tribunal on **25.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 54 of 2019 Inre T.A. No. 623 of 2010

Smt. Shalini Mishra W/o (Late) Sep Ajay Kumar Mishra Petitioner
By Legal Practitioner for the Petitioner

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the petitioner is present. Shri Anurag Mishra, Ld. Counsel for the respondent Nos. 1 to 4 is also present and he seeks and is allowed two weeks time to file affidavit of compliance. Shri Ashutosh Kumar Srivastava, learned counsel for the respondent No. 5 (AGIF) also seeks and is allowed two weeks time to file affidavit annexing therein details of payment made by him. List on **25.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

M.A. No. 909 of 2019 Inre O.A. No. (Nil) of 2019

Ex Rect Vishal Kumar 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** Heard Shri R. Chandra, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents. There is delay of 14 years, 04 months & 23 days in filing Original Application. Learned counsel for the applicant submitted that applicant was discharged from service on 16.12.2004 on account of being deserter. He further submitted that after being discharged from service applicant was detained in jail in connection with a case under Arms Act and an appeal preferred by the father against the order of discharge was dismissed. He further submitted that applicant remained in jail alongwith father and elder brother from 2007 to 2011. Thereafter, father being a cancer patient died on 02.11.2017 on account of his illness and his mother also mentally depressed and for these reasons, Original Application could not be filed in time. Ld. Counsel for the respondents has vehemently opposed the prayer saying that delay has not been properly and satisfactorily explained. Upon hearing submissions of both sides and considering the facts and circumstances of the case we find that cause shown is sufficient. Accordingly, we condone the delay. Let Original Application be registered. **O.A. No. 737 of 2020** It is a fit case for adjudication. Admit. 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. List on **05.03.2021** before the Registrar for exchange of pleadings. List before the Tribunal on **26.03.2021**. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

M.A. No. 925 of 2019 Inre O.A. No. (Nil) of 2019

Lt Col Uma Shankar (Retd) 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri R. Chandra, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents are present. Learned counsel for the applicant seeks and is allowed a week time to file reply and rejoinder affidavit. List on **25.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 131 of 2019

Ex Sub Vijay Prasad 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** 1. Shri Alok Mishra, Advocate filed power today in Court on behalf of the respondents which is taken on record. 2. Heard Shri R. Chandra, Ld. Counsel for the applicant and Shri Alok Mishra, Ld. Counsel for the respondents. 3. 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 the following reliefs:- "(I) The Hon'ble Tribunal may kindly be pleased direct the respondents to grant benefit of rounding of the disability pension to the applicant from 50% to 75% w.e.f. 01/08/2004 alongwith the arrears including interest at the rate of 18 percent per annum. (II) Any other appropriate order or direction which the Hon'ble Tribunal may deem just and proper in the nature and circumstances of the case." 4. The factual matrix of the case are that applicant was enrolled in the Indian Army on 13.03.1982 and invalided out of service after rendering 22 years and 04 months of service on 31.07.2004 in low medical category due to disabilities (i) RIGHT SIDED BASAL GANGLION BLEED @ 100% for life and (ii) HYPERTENSION" assessed @ 30 % for life and considered it neither attributable to nor aggravated (NANA) by military service. Applicant was granted disability element 50% for life w.e.f. 01.08.2004 vide PPO No.

DE/CORR/81602/2010. Applicant preferred an appeal dated 12.01.2018 before the respondents for rounding off of disability pension from 50% to 75% for which reply is still awaited. Aggrieved, the applicant has filed this Original Application.

5. Ld. Counsel for the applicant submitted that applicant is in receipt of 50% disability pension for life w.e.f. 01.08.2004 vide PPO No. DE/CORR/81602/2010. He further submitted that applicant is entitled for the benefit of rounding off from 50% to 75% under the provisions of Govt. of India, Ministry of Defence letter dated 31.01.2001. Learned counsel for the applicant also placed reliance on the judgment of the Hon'ble Apex Court in the case of ***Union of India and Ors vs. Ram Avtar*** (Civil Appeal No,. 418 of 2012) and pleaded that applicant is entitled for rounding off of disability pension from 50% to 75%.

6. On the other hand, Ld. Counsel for the respondents submitted that applicant's disabilities (i) "RIGHT SIDED BASAL GANGLION BLEED" assessed @ 100% for life and (ii) "HYPERTENSION" assessed @ 30 % for life have been considered neither attributable to nor aggravated (NANA) by military service. However, PCDA (Pension), Allahabad notified the disability "Hypertension" aggravated to military service @ 30% for life. He further submitted that applicant has already been granted the benefit of rounding off from 30% to 50% vide PPO No. DE/013209/2005 in accordance with Paragraph 7.2 of Govt. of India, Ministry of Defence letter No 1(2)/97/D (Pen-C) dated 31.01.2001, therefore, the plea regarding grant of rounding off is lack of merit being baseless and deserves to be rejected.

7. We have given our anxious consideration on submissions made by both the parties and on careful perusal of the records, we are of the considered opinion that the applicant is already in receipt of 30% disability for 'Hypertension' which has been rounded off to 50% as accepted by both the parties, further rounding off is not applicable being against the rules vide Govt. of India, Ministry of Defence letter dated 31.01.2001.

8. In view of the above, the O.A. is devoid of merit and deserves to be

	dismissed. It is, accordingly, dismissed. 9. No order as to costs. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 26 of 2018 Inre T.A. No. 178 of 2009

Sriram Pandey Applicant
By Legal Practitioner for the Applicant

Versus

Defence Secretary, Ministry of Defence, Govt of India Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Shailendra Kumar Singh and Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present. Learned counsel for the respondents seeks and is allowed a week further time to file complete compliance report. List on **08.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 42 of 2019 Inre O.A. No. 255 of 2018

L/Nk Manoj Kumar Thakur 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Sudhir Kumar Singh, Ld. Counsel for the applicant and Shri D.K. Pandey, Ld. Counsel for the respondents are present. Affidavit of compliance filed by the respondents is taken on record. Shri Sudhir Kumar Singh, learned counsel for the applicant, during the course of hearing, submitted that order under execution has been complied with. Accordingly, Execution Application is **dismissed** in full and final satisfaction. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 76 of 2018 Inre T.A. No. 81 of 2016

Sharawan Kumar Singh & Others Petitioner
By Legal Practitioner for the Petitioner

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Vijay Kumar Pandey, Ld. Counsel for the petitioner and Shri Namit Sharma, Ld. Counsel for the respondents are present. Affidavit of compliance filed by the respondents is taken on record. Shri Vijay Kumar Pandey, learned counsel for the applicant, during the course of hearing, submitted that payment has been received in the account of applicant. In view of this, Execution Application is **dismissed** being order fully complied with. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB

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

Dy No. 2092 of 2019 with M.A. No. 300 of 2020 Inre O.A. No. Nil of 2019

Ex Sep Pankaj Kumar Rai 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Vinay Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Defects have been removed by the applicant. Learned counsel for the respondents submits that a week time be granted to file objection against delay condonation application which is allowed. After objection being filed, reply, if any, may be filed within two weeks. List on **25.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **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. 57 of 2019 Inre O.A. No. 381 of 2017

Smt Kamil Nisa W/o Sep (Late) Irshad Ali 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
	14.12.2020 **Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)** **Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)** On the case being taken up for hearing Shri Virendra Kumar Gupta, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present. Learned counsel for the respondents seeks and is allowed two weeks time to file affidavit of compliance after serving its copy to learned counsel for the applicant. List on **15.01.2021** for orders. **(Vice Admiral Abhay Raghunath Karve)** **(Justice Umesh Chandra Srivastava)** **Member (A)** **Member (J)** SB