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

M.A. No. 96 of 2017 In re M.A. No. 1916 of 2015

Bal Krishna Tripathi 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
	18.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Beer Prakash, learned counsel for the applicant and Mrs. Anju Singh, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. The case was taken up in the revised list. **M.A.No. 96 of 2017** The application seems to contain incorrect names of the members of the Bench, which passed the order sought to be recalled. The application is rejected with liberty to file a fresh one. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** LN/

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

O.A. (A) No. 210 of 2010

Rashmi Shukla and another Applicants
By Legal Practitioner for the Applicant
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	18.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Yash Pal Singh, learned counsel for the applicant and Shri Anurag Mishra, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. The present OA (A) has been preferred against the impugned order of cashiering/dismissal from service passed against Capt A.K.Chatterjee, since deceased, father of applicant No. 1 Rashmi Shukla. We have heard Shri Yash Pal Singh, learned counsel for the applicants and Shri Anurag Mishra, learned counsel for the respondents, assisted by Col Kamal Singh and Maj Soma John, OIC Legal Cell, and perused the record. According to the arguments advanced by learned counsel for the parties, late A.K.Chatterjee was commissioned in the Army Medical Corps of the Indian Army as a Captain in July,1962. He was reported to be having illicit relationship with Captain C. Kamalamma in spite of the fact that he was a married person. On 30.07.1968, Capt C. Kamalamma wrote a letter to the DGAFMS to release her from service on personal ground. However, on 17.10.1968 Capt C. Kamalamma committed suicide. In post-mortem report, she was found to be pregnant at the time of death. On the basis of post-mortem report and information received, Capt A.K.Chatterjee was charged under

	Section 45 of the Army Act for having illicit relationship with late Capt C. Kamalamma, concealing the fact that he was a married person. After GCM proceedings, Capt A.K.Chatterjee was cashiered from service by the impugned order. He filed a writ petition bearing No. 1097 (S/B) of 2010 before the Hon'ble High Court of Judiature at Allahabad, Lucknow Bench, challenging the *vires* of Army Rule 164. The said petition was dismissed by the judgment and order dated 12.08,2010, a copy of which has been filed with this O.A. However, liberty was given to the petitioner to approach the Army Tribunal for redressal of his grievance. While assailing the impugned order of punishment, it has been submitted by learned counsel for the applicant that the trial of Capt A.K.Chatterjee was convened on the basis of evidence, which was hearsay in nature and relying upon which no punishment could have been awarded to him. It is also submitted that the post-confirmation petition dated 18.09.1981 has been rejected by a cryptic and unreasoned order, which is liable to be set aside. It has also been submitted that the original record of GCM proceedings may be looked into, which will reveal that several illegalities have been committed during the course of GCM proceedings. In response to the arguments advanced by the counsel for the applicant, learned counsel for the respondents, assisted by Col Kamal Singh and Maj Soma John, submits that the entire record with regard to the present controversy has been weeded out on 22.07.1980 after statutory period of 7 years. Submission of learned counsel for the respondents is that since the said record has been weeded out, they are not in a position to bring on record the facts with regard to the evidence collected and the manner in which GCM proceeded. Keeping in view the submissions made by learned counsel for the parties, it is difficult for us to adjudicate upon the controversy raised in the absence of record of GCM proceedings, which is said to be weeded out. So far as the argument of learned counsel for the applicant, that the appellate order is cryptic and unreasoned, is concerned, it is well-settled that even an administrative authority is bound to pass a

reasoned order. A cryptic and non-speaking order passed during quasi-judicial proceedings is hit by Article 14 of the Constitution being violative of principles of natural justice. Such orders must reflect the mind of the said authority so as to indicate how it has dealt with the controversy raised before it. However, the fact remains that since the entire record has been weeded out, that too in pursuance to the powers exercised by the respondents within their jurisdiction, coupled with the fact that the writ petition was filed by Capt A.K.Chatterjee before the Hon'ble High Court after a lapse of more than 40 years, we are helpless to adjudicate the controversy. The petitioner remained sleeping for more than 40 years. We are also of the view that no purpose would be solved by remitting the matter back to the appellate authority for adjudicating the controversy afresh under the teeth of the fact that the entire record has been weeded out.

There was inordinate delay on the part of the petitioner in filing the writ petition before the Hon'ble High Court and raising the controversy before the Tribunal. Liberty granted by the Hon'ble High Court does not mean that the Tribunal may adjudicate the controversy on merit in the absence of record.

In view of above, the present OA(A) seems to be not maintainable and is accordingly dismissed.

No order as to costs.

(Air Marshal Anil Chopra)
Member (A)

(Justice D.P. Singh)
Member (J)

LN

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

O.A. (A). No. 290 of 2015

Kaptan Singh Applicant
By Legal Practitioner for the Applicant
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	18.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri S.K. Singh, learned counsel for the applicant and Shri Asheesh Agnihotri, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Four weeks and no more time, as prayed, is allowed to the respondents to file reply to the supplementary affidavit filed by the applicant. List this case for hearing on **19.04.2017.** **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** LN/

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

T.A. No. 983 of 2010

Ajit Singh Petitioner
By Legal Practitioner for the Petitioner
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	18.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Beer Prakash, learned counsel for the petitioner and Dr. Shailendra Sharma Atal, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Shri S.K.Singh files memo of appearance on behalf of the petitioner. The same is taken on record. When the case is next listed, name of Shri S.K.Singh be also shown as counsel for the petitioner. Bench copy filed by the petitioner is taken on record. List this case for hearing on **23.01.2017.** Parties' counsel may file charts of dates and events and compilation of case-laws, if any, in the meantime. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** LN/

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

T.A. No. 1194 of 2010

Sri Ram Singh Pradhan Petitioner
By Legal Practitioner for the Petitioner
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	18.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri R. Chandra, learned counsel for the petitioner and Shri Asheesh Agnihotri, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. As prayed, list this case for hearing on **24.01.2017** to enable the respondents to file the copy of Court of Inquiry proceedings in terms of the earlier order. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** LN/

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

T.A. No. 11 of 2012 with M.A. No. 2347 of 2015

Krishan Lal Petitioner
By Legal Practitioner for the Petitioner
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	18.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Shailendra Kumar Singh, learned counsel for the petitioner and Shri Ashish Saxena, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Heard learned counsel for the parties at some length. List this case for further hearing on **20.01.2017.** **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** LN/

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

T.A. No. 63 of 2016

Sri Ram Yadav Petitioner
By Legal Practitioner for the Petitioner
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	18.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri V.K. Pandey, learned counsel for the petitioner and Shri Yogesh Kesarwani, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. As prayed by Shri V.K.Pandey, learned counsel for the petitioner, two weeks' time is allowed to file rejoinder affidavit. List this case for hearing on **22.02.2017.** **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** LN/

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

Ex-A 186 of 2016 In re: OA No. 29 of 2010

Shiv Shankar Singh Sengar 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Col (Retd) Rakesh Johri, Ld. Counsel for the applicant and Shri Shyam Singh , Ld. Counsel for the respondents assisted by Col Kamal Singh, OIC Legal Cell. From order dated 22.11.2016 it is borne out that cost of Rs. 10,000/- has been imposed upon the respondents. Let entire cost be deposited by the respondents within a week from today. List the case on **18.01.2017** for orders to enable Ld. Counsel for the respondents as well as OIC Legal Cell to provide Ld. Counsel for the applicant the requirements required to be fulfilled by the applicant for compliance of order of the Tribunal. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

Ex-A/6/2017 in re: OA No. 322 of 2013

Manish Shukla 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri SN Singh Gaherwar, Ld. Counsel for the applicant. Col Kamal Singh, OIC Legal Cell for the respondents As prayed by Ld. Counsel for the respondents, a week's further time is granted to submit report and show cause as to why order of the Tribunal has not been complied with. We hope and trust that by the next date of listing, the order of the Tribunal shall be complied with in letter and spirit. List the case on **21.02.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

MA No. 942 of 2014 with M.A. No. 2143 of 2015
and M.A. No. 1671 of 2016

Hari 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri R. Chandra, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. **M.A. No. 1671 of 2016** Reply filed by the applicant to objection to application for condonation of delay is taken on record. M.A. is disposed of. **MA No. 942 of 2014** This is an application for condonation of delay in preferring the O.A. being aggrieved with impugned order of dismissal dated 15.10.1989. Against order of dismissal, the present O.A. has been filed in the year 2014. The applicant filed a mercy petition to the President on 01.06.2009 which was rejected on 22.01.2010. Submission of Ld. Counsel for the applicant is that the applicant had made prayer for payment of pension which inhibits in itself recurring cause of action, hence delay is liable to be condoned. On the other hand, Ld. Counsel Shri Amit Jaiswal

appearing for the respondents submits that under Regulation 113 of the Pension Regulation for the Army, the applicant is not entitled for payment of pension being dismissed from service as deserter.

From the material on record, it is borne out that the applicant was granted annual leave in the year 1987 and he did not turn up to join duties, hence was dismissed from service by the impugned order dated 15.10.1989. A deserter who has been dismissed from service shall not be entitled for payment of pension under the Pension Regulation (supra). For convenience sake Regulation 113 is reproduced as under:

> "*113 (a). An individual who is dismissed under the provisions of the Army Act, is ineligible for pension or gratuity in respect of all previous service. In exceptional cases, however, he may, at the discretion of the President be granted service pension or gratuity at a rate not exceeding that for which he would have been otherwise qualified had he been discharged on the same date.*
>
> *(b)……"*

A plain reading of the aforesaid Regulation shows that a person dismissed from service shall not be entitled for pension. Otherwise also, it is trite law that a dismissed employ shall not be entitled for payment of pension. The applicant preferred mercy pension to the President after lapse of almost 20 years. Even there is not a whisper as to under what circumstances and for what reason the applicant has not approached with mercy petition within the time lag of 20 years from 15.10.1989 to 01.06.2009. The applicant has failed to explain the delay for about 20 years. Even after dismissal of the mercy petition, the present O.A. has been preferred after 4 years.

Section 5 of the Indian Limitation Act, 1872 read with Section 22 of the Armed Forces Tribunal Act, 2007, the respondents have got statutory right to oppose a petition in case it is preferred barred by limitation. Ofcourse, liberal view should be taken while deciding a petition preferred barred by limitation, but in the present case there is absolutely no explanation

forthcoming with regard to delay of 20 years.

The argument advanced by Ld. Counsel for the applicant that it is a case of recurring cause of action is misconceived. Question of recurring cause of action may arise only in case order of dismissal is set aside and the applicant is deemed to be discharged from service in usual course. In the present case, dismissal order itself still continues. Lack of explanation to explain delay from the date of desertion to the date of preferring mercy petition to the President of India disentitles the applicant to avail beneficial remedy with regard to condonation of delay.

Ld. Counsel for the respondents has relied upon the judgments of Hon'ble Supreme Court in the following cases:

(i) ***Maniben Devraj Shah vs. Municipal Corporation of Brihan, Mumbai***, (2012) 5 SCC 157, and

(ii) ***H. Dohil Constructions Company Private Limited vs. Nahar Exports Limited & anr***, (2015) 1 SCC 680.

In the case of ***H. Dohil Constructions Company Private Limited*** (supra), their Lordships have observed as under:

"*23. We may also usefully refer to the recent decision of this Court in Esha Bhattacharjee* (2013) 12 SCC 649) *where several principles were culled out to be kept in mind while dealing with such applications for condonation of delay. Principles (iv), (v), (viii), (ix) and (x) of para 21 can be usefully referred to, which read as under: (SCC pp. 658 to 59."*

21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel for litigant is to be taken note of.
21.5 (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

* * *

21.8 (vii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter, it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

21.9 (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant facts to be

taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach.

21.10 (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation".

In view of aforesaid observation of Hon'ble Supreme Court, we are of the view that since the applicant has failed to explain the delay of 20 years in preferring the petition before President of India, in view of the judgment of Hon'ble Supreme Court (supra), no presumption can be attached to deliberate causation of delay but gross negligence on the part of the counsel or the litigant is to be taken note of.

In the present case, there appears to be gross negligence on the part of the applicant while preferring mercy petition before the President of India and later on approaching the Tribunal which cannot be condoned while exercising power under Section 22 of the Armed Forces Tribunal Act, 2007.

In any case, the order of dismissal does not inhibit in itself recurring cause of action which may be challenged even after inordinate delay and till order of dismissal stands, no cause of action shall arise with regard to payment of pension.

So far as submission of Ld. Counsel for the applicant that Ex Havildar Udai Bahadur Singh has been paid pension by the respondents in violation of Regulation 113 of the Pension Regulations for the Army is concerned, we are of the view that it does not extend any parity as enshrined in Article 14 of the Constitution of India. It is well settled law that parity or equality is a positive concept and not a negative one. A wrong committed by the respondents for any reason whatsoever does not mean that it may be perpetuated by the Courts or the Tribunal for other person(s). Once Regulation 113 of the Pension Regulations for the Army disentitles payment of pension in the event of dismissal

	from service, then it is not open for the Courts or the Tribunal to pass order in violation of statutory provision. In view of our observations made hereinabove, we are of the view that the cause shown by the applicant is not sufficient. The application lacks merit, hence **rejected.** Since the application for condonation of delay has been rejected, consequentially the O. A. is also **dismissed.** **(Air Marshal Anil Chopra)** **(Justice D. P. Singh)** **Member (A)** **Member (J)** anb

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

Court No. 1 (List A)

MA No. 1789 of 2016

Arvind 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : None for the applicant. Shri Ashish Agnihotri, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. It is reported that Shri Ram Kumar Verma, Ld. Counsel for the applicant is indisposed of. The case is accordingly adjourned. List the case again on **12.05.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

Ma No. 2104 of 2016 In re: TA No. 535 of 2010

Ramendra Singh Petitioner
By Legal Practitioner for the Petitioner

Versus

Union of India & Ors Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Sandeep Tripathi, Ld. Counsel for the petitioner and Shri Siddharth Dhaon, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Ld. Counsel for the applicant is reported to be ill. The case is accordingly adjourned. List the case on **31.01.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D. P. Singh)** **Member (A)** **Member (J)** anb

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

MA No. 2300 of 2016 with R.A. No. 98 of 2016
In re: OA No. 248 of 2010

Union of India & ors Applicants
By Legal Practitioner for the Applicants

Versus

Ater Singh Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri D.K. Pandey, Central Government Counsel for the applicant assisted by Col Kamal Singh, OIC Legal Cell. Ld. Counsel Shri Parijaat Belaura has filed Vakalatnama on behalf of the respondent/applicant which is taken on record. Shri D.K. Pandey, Central Government Counsel appearing on behalf of the applicant/respondents submits that the applicants intend to withdraw the review application. Keeping in view that statement given, we **dispose of** the review application as withdrawn. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

MA No. 2330 of 2016 with R.A. No. 99 of 2016
In re: OA No. 239 of 2013

Union of India & ors Applicants
By Legal Practitioner for the Applicants

Versus

Ram Kishore Dwivedi Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri D.K. Pandey, Ld. Central Government Counsel assisted by Col Kamal Singh, OIC Legal Cell. Registry shall issue notice to the respondent/applicant (Ram Kishore Dwivedi) returnable by **23.05.2017.** Direction issued shall not create any ground with regard to non-compliance of order of the Tribunal. List the case on **23.05.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

OA No. 247 of 2015

Meera 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Sharad Nandan Ojha, Ld. Counsel for the applicant and Shri Amit Jaiswal, Central Government Counsel assisted for the respondents. As prayed by OIC Legal Cell, four weeks' time is granted to the respondents to file counter affidavit. Applicant shall have two weeks thereafter to file rejoinder affidavit. List the case on **24.05.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

"AFR"
Court No. 1 (List A)

O.A. No. 260 of 2016

Col Ran Singh Dudee 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Applicant in person, and Mrs. Appoli Shrivastava, learned counsel for the respondents, assisted by Maj Alifa Akbar, OIC Legal Cell. Judgment pronounced. Original Application No. 260 of 2016 is **allowed**. For order, see our order of date passed on separate sheets. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** MH

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

Court No. 1 (List A)

T.A. No. 89 of 2016

Mohd Irfan Petitioner
By Legal Practitioner for the Petitioner

Versus

Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present: Shri Md. Shahan, learned counsel for the petitioner and Shri D.K. Pandey, learned counsel for the respondents, assisted by Maj Soma John, and Col Ajeen Kumar, OIC Legal Cell. The petitioner in the instant case has challenged the appointment of respondent no 4 on the post of religious teacher "Maulvi" seeking setting aside the entire selection and merit list in the Army. The main brunt of argument of learned counsel for the respondents revolves round the submission that the petition is not maintainable for the reason that the appointment and selection of any other persons cannot be subject matter of dispute more so when the petitioner is not aggrieved party and in this connection he has referred to the provisions of Armed Forces Tribunal Act 2007. He further submits that Armed Forces Tribunal Act has been meant for redressals of grievance of persons under the Army Act while the petitioner is not a member of Armed Forces and he has approached the Tribunal with the sole prayer of setting aside the selection and appointment of respondent no.4. The entire controversy for adjudication hinges on interpretation of section 2 of the Armed Forces Tribunal Act 2007. In connection with the above, learned counsel for the

	respondents prays for time to prepare the case on the point. As prayed by learned counsel for the respondents, list this case on 31.01.2017 for further hearing. **(Air Marshal Anil Chopra)** **Member (A)** MH **(Justice D.P. Singh)** **Member (J)**

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

O.A. No. 248 of 2011

Mohd Arif 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Shailendra Kumar Singh, learned counsel for the applicant and Mrs Amrita Chakraborty, learned counsel for the respondents, assisted by Wg Cdr Sardul Singh, OIC Legal Cell. As prayed by learned counsel for the respondents, the case is ordered to be listed on 25.01.2017 for further hearing. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** MH

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

O.A. No. 519 of 2012

Yogendra Kumar Sharma Applicant
By Legal Practitioner for the Applicant
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri V.P. Pandey, learned counsel for the applicant and Shri Kaushik Chattarji, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. We have heard learned counsel for the Applicant as also learned counsel for the respondents. We have also been taken through the materials on record. The gravamen of the Applicant is that he has been discharged on medical ground falling in the category of P-2 without serving any show cause notice and without providing the sheltered appointment and also that he has been discharged on the report of Release Medical Board without being produced for examination by the Invalidating Medical Board. The Applicant, it would appear, was enrolled in the Army on 20.10.1995 and his services were attested on 29.08.1996 after completion of training. In so far as service career of the Applicant is concerned, he has got an unblemished record with the exception of three red ink entries. It would transpire from the record that in July 2010, he fell prey to hyper-tension as a result of which he was placed before Release medical Board which recommended his case for discharge on 05.12.2011 on account of suffering form primary hyper-tension which was opined to be not attributable to military service. In so far as the disease of primary hypertension being not

attributable to military service is concerned, it may be a good case for grant of disability pension for which the Applicant is at liberty to approach the appropriate forum but in so far as the order of discharge is concerned, the submission of the learned counsel for the Applicant is two-fold; firstly, that no discharge order could have been passed without the Applicant being subjected to examination by Invalidating Medical Board. The second limb of argument is that the Applicant has not been provided sheltered appointment under Army Act 3 of 20011.

In so far as the first limb of argument is concerned, our attention has been invited to the Circular of the Army dated 13.05.2010 according to which invalidating Medical Board is not necessary and only Release Medical Board will suffice for discharge of a person. In the present case, Release Medical Board was convened on 08.02.2010. In this view of the matter, the submission that the discharge order is vitiated on the solitary ground that he was discharged merely on the basis of the opinion of the Release Medical Board does not seem to be sustainable.

Descending to second limb of Arguments that the Applicant was not provided sheltered appointment, our attention has been invited by the respondents to Rule 13 III (iii) (a) as amended by SRO 22 dated 13.05.2010 which has been effectuated from 29.05.2010. From a close scrutiny of the aforesaid Rule, we are of the view that the aforesaid Rule would come into play to apply to the controversy in question. Rule 13 III (iii) (a) of the Army Rules being relevant is reproduced below for ready reference.

Grounds of discharge	Competent Authority to authorise discharge	Manner of discharge.
[iii] (a) Having been found to be in permanent low medical category SHAPE 2/3 by a	Commanding Officer	The individual will be discharged from service on the recommendations of Release Medical Board.

medical board and when (i) No sheltered appointment is available in the unit or (ii) (ii) is surplus to the organisation		

A plain reading of the Rule leaves no manner of doubt that in case no sheltered appointment is available in the Unit, or is surplus to the organisation, then request for sheltered appointment may be turned down.

Our attention has been invited to specific pleading contained in Para 3 of the counter affidavit, wherein it is categorically stated that Unit is not possessed of any vacancy for grant of sheltered appointment. This fact also finds mention in the show-cause notice dated 26.07.2011. Hence, this limb of argument also falls to the ground. Further a show cause notice was issued and the same is on record.

In the above conspectus, we are of the view that the present O.A lacks merit and cannot be sustained inasmuch as the order of discharge does not suffer from any illegality or infirmity.

Accordingly, the O.A is dismissed with liberty to the Applicant to approach the appropriate forum or prefer fresh O.A for seeking disability pension.

(Air Marshal Anil Chopra)
Member (A)

(Justice D.P. Singh)
Member (J)

MH

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

O.A. No. 163 of 2015

Lt Col Ray Gautam Prasad Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri V.A. Singh, learned counsel for the applicant and Shri Kaushik Chattarji, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. In the course of hearing, learned counsel for the respondents prays for time to prepare the case on certain points which have surfaced for being replied. . As prayed by learned counsel for the respondents, list this case on 30.01.2017 for further hearing. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** MH

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

O.A. No. 264 of 2014

Col Mahesh Kumar Singh Applicant
By Legal Practitioner for the Applicant
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Col (Retd) Y.R. Sharma, learned counsel for the applicant and Shri Sunil Sharma, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. . As prayed by learned counsel for the respondents, a week's further time is allowed to file affidavit in terms of earlier order dated 24.11.2016. List this case on 31.01.2017 for further hearing. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** MH

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

O.A. No. 145 of 2015 with M.A. No. 2583 of 2016

Lt Col Pawan Kumar Gaur Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri R.Chandra, Advocate holding brief of Shri R.K.Verma, learned counsel for the applicant and Mrs. Appoli Shrivastava, learned counsel for the respondents, assisted by Col Kamal Singh, and Col Ajeen Kumar, OIC Legal Cell. . A mention has been made by Shri R.Chandra, Advocate that Shri R.K.Verma, learned counsel for the Applicant has not attended the Court on account of being ill. In view of the above, the case is adjourned and is directed to be listed on 25.05.2017 for hearing. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** MH

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

O.A. No. 289 of 2015

Col Balvinder Singh Mavi Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri S.G. Singh, learned counsel for the applicant and Shri Shyam Singh, learned counsel for the respondents, assisted by Col Kamal Singh, Col Ajeen Kumar, OIC Legal Cell. . As prayed by learned counsel for the respondents, the case is directed to be listed for hearing on 31.01.2017. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** MH

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

Ex-A 186 of 2016 In re: OA No. 29 of 2010

Shiv Shankar Singh Sengar 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Col (Retd) Rakesh Johri, Ld. Counsel for the applicant and Shri Shyam Singh , Ld. Counsel for the respondents assisted by Col Kamal Singh, OIC Legal Cell. From order dated 22.11.2016 it is borne out that cost of Rs. 10,000/- has been imposed upon the respondents. Let entire cost be deposited by the respondents within a week from today. List the case on **18.01.2017** for orders to enable Ld. Counsel for the respondents as well as OIC Legal Cell to provide Ld. Counsel for the applicant the requirements required to be fulfilled by the applicant for compliance of order of the Tribunal. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

Ex-A/6/2017 in re: OA No. 322 of 2013

Manish Shukla 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri SN Singh Gaherwar, Ld. Counsel for the applicant. Col Kamal Singh, OIC Legal Cell for the respondents As prayed by Ld. Counsel for the respondents, a week's further time is granted to submit report and show cause as to why order of the Tribunal has not been complied with. We hope and trust that by the next date of listing, the order of the Tribunal shall be complied with in letter and spirit. List the case on **21.02.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

MA No. 942 of 2014 with M.A. No. 2143 of 2015
and M.A. No. 1671 of 2016

Hari 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri R. Chandra, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. **M.A. No. 1671 of 2016** Reply filed by the applicant to objection to application for condonation of delay is taken on record. M.A. is disposed of. **MA No. 942 of 2014** This is an application for condonation of delay in preferring the O.A. being aggrieved with impugned order of dismissal dated 15.10.1989. Against order of dismissal, the present O.A. has been filed in the year 2014. The applicant filed a mercy petition to the President on 01.06.2009 which was rejected on 22.01.2010. Submission of Ld. Counsel for the applicant is that the applicant had made prayer for payment of pension which inhibits in itself recurring cause of action, hence delay is liable to be condoned. On the other hand, Ld. Counsel Shri Amit Jaiswal

appearing for the respondents submits that under Regulation 113 of the Pension Regulation for the Army, the applicant is not entitled for payment of pension being dismissed from service as deserter.

From the material on record, it is borne out that the applicant was granted annual leave in the year 1987 and he did not turn up to join duties, hence was dismissed from service by the impugned order dated 15.10.1989. A deserter who has been dismissed from service shall not be entitled for payment of pension under the Pension Regulation (supra). For convenience sake Regulation 113 is reproduced as under:

> "*113 (a). An individual who is dismissed under the provisions of the Army Act, is ineligible for pension or gratuity in respect of all previous service. In exceptional cases, however, he may, at the discretion of the President be granted service pension or gratuity at a rate not exceeding that for which he would have been otherwise qualified had he been discharged on the same date.*
>
> *(b)……"*

A plain reading of the aforesaid Regulation shows that a person dismissed from service shall not be entitled for pension. Otherwise also, it is trite law that a dismissed employ shall not be entitled for payment of pension. The applicant preferred mercy pension to the President after lapse of almost 20 years. Even there is not a whisper as to under what circumstances and for what reason the applicant has not approached with mercy petition within the time lag of 20 years from 15.10.1989 to 01.06.2009. The applicant has failed to explain the delay for about 20 years. Even after dismissal of the mercy petition, the present O.A. has been preferred after 4 years.

Section 5 of the Indian Limitation Act, 1872 read with Section 22 of the Armed Forces Tribunal Act, 2007, the respondents have got statutory right to oppose a petition in case it is preferred barred by limitation. Ofcourse, liberal view should be taken while deciding a petition preferred barred by limitation, but in the present case there is absolutely no explanation

forthcoming with regard to delay of 20 years.

The argument advanced by Ld. Counsel for the applicant that it is a case of recurring cause of action is misconceived. Question of recurring cause of action may arise only in case order of dismissal is set aside and the applicant is deemed to be discharged from service in usual course. In the present case, dismissal order itself still continues. Lack of explanation to explain delay from the date of desertion to the date of preferring mercy petition to the President of India disentitles the applicant to avail beneficial remedy with regard to condonation of delay.

Ld. Counsel for the respondents has relied upon the judgments of Hon'ble Supreme Court in the following cases:

(i) ***Maniben Devraj Shah vs. Municipal Corporation of Brihan, Mumbai***, (2012) 5 SCC 157, and

(ii) ***H. Dohil Constructions Company Private Limited vs. Nahar Exports Limited & anr***, (2015) 1 SCC 680.

In the case of ***H. Dohil Constructions Company Private Limited*** (supra), their Lordships have observed as under:

"*23. We may also usefully refer to the recent decision of this Court in Esha Bhattacharjee* (2013) 12 SCC 649) *where several principles were culled out to be kept in mind while dealing with such applications for condonation of delay. Principles (iv), (v), (viii), (ix) and (x) of para 21 can be usefully referred to, which read as under: (SCC pp. 658 to 59."*

21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel for litigant is to be taken note of.
21.5 (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

* * *

21.8 (vii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter, it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

21.9 (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant facts to be

taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach.

21.10 (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation".

In view of aforesaid observation of Hon'ble Supreme Court, we are of the view that since the applicant has failed to explain the delay of 20 years in preferring the petition before President of India, in view of the judgment of Hon'ble Supreme Court (supra), no presumption can be attached to deliberate causation of delay but gross negligence on the part of the counsel or the litigant is to be taken note of.

In the present case, there appears to be gross negligence on the part of the applicant while preferring mercy petition before the President of India and later on approaching the Tribunal which cannot be condoned while exercising power under Section 22 of the Armed Forces Tribunal Act, 2007.

In any case, the order of dismissal does not inhibit in itself recurring cause of action which may be challenged even after inordinate delay and till order of dismissal stands, no cause of action shall arise with regard to payment of pension.

So far as submission of Ld. Counsel for the applicant that Ex Havildar Udai Bahadur Singh has been paid pension by the respondents in violation of Regulation 113 of the Pension Regulations for the Army is concerned, we are of the view that it does not extend any parity as enshrined in Article 14 of the Constitution of India. It is well settled law that parity or equality is a positive concept and not a negative one. A wrong committed by the respondents for any reason whatsoever does not mean that it may be perpetuated by the Courts or the Tribunal for other person(s). Once Regulation 113 of the Pension Regulations for the Army disentitles payment of pension in the event of dismissal

	from service, then it is not open for the Courts or the Tribunal to pass order in violation of statutory provision. In view of our observations made hereinabove, we are of the view that the cause shown by the applicant is not sufficient. The application lacks merit, hence **rejected.** Since the application for condonation of delay has been rejected, consequentially the O. A. is also **dismissed.** **(Air Marshal Anil Chopra)** **(Justice D. P. Singh)** **Member (A)** **Member (J)** anb

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

Court No. 1 (List A)

MA No. 1789 of 2016

Arvind 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : None for the applicant. Shri Ashish Agnihotri, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. It is reported that Shri Ram Kumar Verma, Ld. Counsel for the applicant is indisposed of. The case is accordingly adjourned. List the case again on **12.05.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

Ma No. 2104 of 2016 In re: TA No. 535 of 2010

Ramendra Singh Petitioner
By Legal Practitioner for the Petitioner

Versus

Union of India & Ors Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Sandeep Tripathi, Ld. Counsel for the petitioner and Shri Siddharth Dhaon, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Ld. Counsel for the applicant is reported to be ill. The case is accordingly adjourned. List the case on **31.01.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D. P. Singh)** **Member (A)** **Member (J)** anb

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

MA No. 2300 of 2016 with R.A. No. 98 of 2016
In re: OA No. 248 of 2010

Union of India & ors Applicants
By Legal Practitioner for the Applicants

Versus

Ater Singh Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri D.K. Pandey, Central Government Counsel for the applicant assisted by Col Kamal Singh, OIC Legal Cell. Ld. Counsel Shri Parijaat Belaura has filed Vakalatnama on behalf of the respondent/applicant which is taken on record. Shri D.K. Pandey, Central Government Counsel appearing on behalf of the applicant/respondents submits that the applicants intend to withdraw the review application. Keeping in view that statement given, we **dispose of** the review application as withdrawn. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

MA No. 2330 of 2016 with R.A. No. 99 of 2016
In re: OA No. 239 of 2013

Union of India & ors Applicants
By Legal Practitioner for the Applicants

Versus

Ram Kishore Dwivedi Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri D.K. Pandey, Ld. Central Government Counsel assisted by Col Kamal Singh, OIC Legal Cell. Registry shall issue notice to the respondent/applicant (Ram Kishore Dwivedi) returnable by **23.05.2017.** Direction issued shall not create any ground with regard to non-compliance of order of the Tribunal. List the case on **23.05.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

OA No. 247 of 2015

Meera 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
	17.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Sharad Nandan Ojha, Ld. Counsel for the applicant and Shri Amit Jaiswal, Central Government Counsel assisted for the respondents. As prayed by OIC Legal Cell, four weeks' time is granted to the respondents to file counter affidavit. Applicant shall have two weeks thereafter to file rejoinder affidavit. List the case on **24.05.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

Court No. 1 (List A)

M.A. No. 80 of f2017 In re O.A. No. Nil of 2017

Shyam Babu 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
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Shri V.P.S.Vats, Advocate files memo of appearance on behalf of the respondents. The same is taken on record. When the case is next listed, name of Shri V.P.S.Vats be shown as counsel for the respondents. Present : Shri V.P. Pandey, learned counsel for the applicant and Shri V.P.S.Vats, learned counsel for the respondents. **M.A.No. 80 of 2017** Heard learned counsel for the applicant. This is an application for condonation of delay in filing the OA, which is barred by 3 days. Cause shown is sufficient. Accordingly, the application is allowed and the delay in filing the OA is hereby condoned. **O.A.No. Nil of 2017** This is an application under Section 14 of the Armed Forces Tribunal Act, 2007 filed by the applicant against the impugned order of dismissal from services dated 16.06.2016.

	Submission of learned counsel for the applicant is that the order of dismissal has been passed by adopting the procedure prescribed for administrative action, hence it suffers from arbitrary exercise of power. It is also submitted that the applicant was fit to perform his duties and the adverse opinion given thereon is not sustainable. **Admit.** The respondents may file counter affidavit within six weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter **.** List this case for hearing on **03.05.2017**. The respondents shall produce the original record on the said date for perusal of the Court. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** LN

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (List A)
M.A. No. 81 of 2017 In re O.A. No. Nil of 2017

Jaswant 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
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Dr. Shailendra Sharma Atal, Advocate files memo of appearance on behalf of the respondents. The same is taken on record. When the case is next listed, name of Dr. Shailendra Sharma Atal be shown as counsel for the respondents. Present : Shri V.P. Pandey, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Being aggrieved of the action of the respondents in not promoting the applicant to the rank of Lance Risaldar, the applicant has approached this Tribunal by means of this OA under Section 14 of the Armed Forces Tribunal Act, 2007. Submission of learned counsel for the applicant is that award of marks in the ACR without watching the performance of the individual for 90 days continuously under the superior authority, is an act of arbitrariness. **Admit.** Let counter affidavit be filed by the respondents within six weeks. Rejoinder affidavit, if any, may be filed by the applicant within two weeks thereafter. List this case for hearing on **04.05.2017.** **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** LN

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

M.A. No. 2211 of 2016 In re O.A. No. Nil of 2016

Shankar Dutt Bhatt 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
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri V.P. Pandey, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Shri Amit Jaiswal, learned counsel for the respondent submits that objection to the application for condonation of delay has already been filed. As prayed by learned counsel for the applicant, four weeks' time is allowed to file reply to the said objection. List this case for orders on **05.05.2017.** **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

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

M.A. No. 2379 of 2016 with M.A. No. 2547 of 2016
In re O.A. No. Nil of 2016

Amit 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
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Virat Anand Singh, learned counsel for the applicant and Shri G.S.Sikarwar, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Shri G.S.Sikarwar, learned counsel for the respondents submits that objection to the application for condonation of delay has already been filed. Issue notice to respondent No. 5 returnable at an early date. In the meantime, the applicant may file reply to the aforesaid objection filed by respondents No. 1 to 4 within four weeks. List this case for orders on **08.05.2017.** **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

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

Court No. 1 (List A)

T.A.No. 82 of 2011

Ram Lakhan Petitioner
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
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Sri P.S.Chauhan, learned counsel for the applicant and Shri Ashish Saxena, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. In compliance of this Court's order dated 28.11.2016, costs has been deposited. The controversy relates back to the year 1989. We have heard learned counsel for the parties. List this case for further hearing on **24.01.2017**. In case of non-representation of the petitioner on the said date, we may proceed for *ex parte* hearing of the case. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

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

Ex.A No. 60 of 2013
with M.A. No. 1744/16, M.A.No. 2669/16, M.A.No. 50/17
In re O.A. No. 419 of 2011

Satya Narayan Singh and Ors Applicants
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Parijaat Belaura, learned counsel for the applicant and Shri A.N.Tripathi, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Shri A.N.Tripathi, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell has made a statement at Bar that the PPO has been forwarded to the respective banks in June, 2016, but the amount has not been paid to the applicant. The applicant shall implead the concerned banks within a week. List this case for orders on **23.01.2017.** **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

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

Ex.A No. 114 of 2016 in Re: OA No. 222 of 2011

Rajesh Kumar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Rohit Kumar, learned counsel for the applicant and Ms Appoli Srivastava, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Ms Appoli Srivastava, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell makes a statement at Bar that the order of the Tribunal has been complied with and the applicant has reported for duty in the Unit concerned. In view of the aforesaid statement given at Bar by the respondents, the application has lost its efficacy and is rejected as infructuous. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** MH

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

O.A. No. 293 of 2016

Prashant 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
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Shri R.Chandra, Advocate files memo of appearance on behalf of respondent No. 5. The same is taken on record. When the case is next listed, name of Shri R.Chandra be shown as counsel for respondent No. 5. Present : Shri Rao Narendra Singh, learned counsel for the applicant and Dr. Chet Narain Singh, learned counsel for the respondents No. 1 to 4, assisted by Wg Cdr Sardul Singh, OIC Legal Cell and Shri R.Chandra, learned counsel for respondent No. 5. The applicant is aggrieved of the maintenance granted to his wife, respondent No. 5. **Admit.** Let counter affidavit be filed by the respondents within six weeks. Rejoinder affidavit, if any, may be filed by the applicant within two weeks thereafter. List this case for hearing on **09.05.2017.** **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

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

T.A.No. 34 of 2010

Vinay 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
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri S.P.Singh, learned counsel for the applicant and Shri Asheesh Agnihotri, learned counsel for the respondents, assisted by Col Kamal Singh and Maj Soma John, OIC Legal Cell. As prayed by learned counsel for the applicant, list this case for further hearing on **23.01.2017** in terms of earlier order. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

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

O.A.No. 123 of 2010 with MA No. 2232/16 and MA No. 2443/16

Durgawati 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
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri V.A.Singh, learned counsel for the applicant and Shri G.S.Sikarwar, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Shri G.S.Sikarwar, leraned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell submits that so far as Court of Inquiry is concerned, it is the same in the case of the applicant and Maj Qayum Khan. However, Summary of Evidence is separate. By earlier order dated 03.01.2017, we had directed the respondents to produce the original records of Maj Qayum Khan, but the same has not been produced even today. List this case for hearing on **23.01.2017** in terms of the earlier order. The respondents shall produce the original record or Summary of Evidence and other material relating to Maj Qayum Khan before the Tribunal on the said date. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** LN

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

O.A. No. 278 of 2012

Hemendra Kumar Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Memo of appearance on behalf of the respondents has been filed by Sri Amit Jaiswal, Advocate, which is taken on record. When the case is next listed, name of Shri Amit Jaiswal be shown as counsel for the respondents. Present : Shri Bachchan Singh, learned counsel for the applicant and Shri Amit Jaiswal, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Statement has been made by Shri Amit Jaiswal, assisted by Col Kamal Singh, OIC Legal that the respondents do not intend to file any response on behalf of respondent No. 6 Maj Ashish Dhaka since all materials have already been brought on record through counter affidavit filed by the respondents. Heard learned counsel for the parties at some length. List this case for further hearing on 24.01.2017. Parties' counsel shall submit synopsis of case and chart of dates and events as well as compilation of case laws by the date fixed. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

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

O.A. No. 105 of 2016

Lt Col Rajeev Bhola Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Asheesh Agnihotri, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. . It is reported that grandfather of Shri Harshvardhan, learned counsel for the applicant is not well, hence he has not come to the Court today. As prayed, list this case for hearing on **11.05.2017** in terms of earlier order. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

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

Court No. 1 (List A)

T.A. No. 211 of 2009

Liladhar Petitioner
By Legal Practitioner for the Petitioner

Versus

Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Amit Sharma, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. On the request made on behalf of Shri Yashpal Singh, learned counsel for the applicant, list this case for hearing on 18.01.2017. Parties' counsel may submit synopsis of case and chart of dates and events as well as compilation of case laws by the date fixed. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** LN/

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

T.A. No. 37 of 2010

Ghanshyam Petitioner
By Legal Practitioner for the Petitioner
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri S.P. Singh, learned counsel for the petitioner and Shri V.P.S. Vats, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Shri V.P.S.Vats, learned counsel for the respondents states that he has already filed supplementary counter affidavit and the same is on record. The petitioner may file supplementary rejoinder affidavit within a week. List this case for hearing on **24.01.2017.** **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

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

T.A. No. 983 of 2010

Ajit Singh Petitioner
By Legal Practitioner for the Petitioner
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Beer Prakash, learned counsel for the petitioner and Dr. Shailendra Sharma Atal, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. List this case for hearing on 18.01.2017 to enable the learned counsel for the applicant to supply Bench Copy. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

Form No. 4

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

T.A. No. 1204 of 2010 Alongwith T.A. No. 211 of 2009

T Kishan Petitioner
By Legal Practitioner for the Petitioner
Versus
Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	16.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Pradeep Chandola, learned counsel for the petitioner and Shri Amit Sharma, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. . As prayed, list this case for further hearing on **18.01.2016.** **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** JPT

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

O.A. No. 16 of 2017

Kulbhushan Dwivedi 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
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri P.K. Shukla, Ld. Counsel for the applicant and Shri Rajiv Pandey, Ld. Counsel for the respondents assisted by Col Kamal Singh, OIC Legal Cell. Discharge of applicant from Army is based on seven red ink entries. According to Ld. Counsel for the applicant the controversy in question is covered by this Tribunal in O.A. No. 168 of 2013, ***Abhilash Singh Kushwah vs. Union of India & Ors*** and recent judgment of Hon'ble Supreme Court dated 15.12.2016 in the case of ***Vijay Shankar Mishra vs. Union of India & Ors***. **Admit.** Respondents shall file counter affidavit within six weeks. Applicant may file rejoinder affidavit within two weeks thereafter. List on **04.05.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

O. A. No. 17 of 2017

Pravesh 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
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Lalit Kumar, Ld. Counsel for the applicant and Shri R.K.S. Chauhan, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. Present O.A. has been preferred against impugned order of discharge on the ground that the applicant has been exonerated of the charges by the appropriate authority but later on the matter was re-opened. Submission is that once the higher authorities has exonerated the applicant and closed the proceedings it was not open for the subordinate authority to re-open it. **Admit.** Respondents may file counter affidavit within three weeks. Rejoinder affidavit may be filed by the applicant within one week thereafter. List the case on **09.02.2017** for orders. Respondents shall also produce the original records on the date fixed. Copy of the order may be supplied to Ld. Counsel for the applicant on payment of usual charges by 13.01.2017. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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Court No. 1 (List A)

Ex-A/148 of 2016 with M.A. No. 2197 of 2016,
M.A. No. 2206 of 2016 and M.A. No. 75 of 2017
in re O. A. No. 359 of 2012

Ex JWO Shiv Kant 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
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Applicant in person. Shri Rajiv Pandey, Ld. Counsel for the respondents, assisted Wg Cdr Sardul Singh, OIC Legal Cell. **M.A. No. 2197 of 2016** Compliance report filed by the respondents is taken on record. M.A. is disposed of. **M.A. No. 2206 of 2016** Supplementary affidavit filed by the applicant is taken on record. M.A. is disposed of. **M.A. No. 75 of 2017** Reply of supplementary affidavit filed by the respondents is taken on record. M.A. is disposed of. **Ex-A/148 of 2016** Heard applicant in person and Shri Rajiv Pandey, Ld. Counsel for the respondents assisted by Wg Cdr Sardul Singh, OIC Legal Cell. Present execution application has been preferred on account of non compliance of order dated 05.05.2016 passed by

	the Tribunal. Submission at Bar has been made by Ld. Counsel for the respondents that PPO and additional PPO has been issued for payment of outstanding dues in terms of order of this Tribunal (supra). Submission is that so far as the respondents are concerned they have complied with the order of the Tribunal in letter and spirit. However applicant submits that the JCDA, (Air Force), Subroto Park, New Delhi has not calculated the amount correctly. In case it is so the applicant may represent his cause which shall be looked into by the appropriate authority within two months from the date representation is made by the applicant by passing speaking and reasoned order with due communication to the applicant. So far as controversy in question is concerned, the concerned bank is directed to make payment to the applicant in terms of PPO issued in terms of order of this Tribunal dated 05.05.2016 within one month. It is clarified that the released amount shall not preclude the applicant in case some incorrect calculation has been done in respect of the rectified PPO issued by the JCDA, New Delhi. With the aforesaid observation the execution is **disposed of** finally. **(Air Marshal Anil Chopra)** **(Justice D. P. Singh)** **Member (A)** **Member (J)** anb

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1 (List A)

EX-A. No. 211 of 2016 In re M.A. No. 114 of 2016, M.A. No. 1561 of 2016 and M.A. No. 1562 of 2016

Nihal 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
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Dr. Satendra Kumar Singh, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. **M.A. No. 1561 of 2016** Application for personal appearance exemption is allowed. M.A. No. 1561 of 2016 is disposed of. **M.A. No. 1562 of 2016** Affidavit filed by the respondents is taken on record. M.A. No. 1562 of 2016 is disposed of. **EX-A. No. 211 of 2016** As prayed by Ld. Counsel for the applicant, list the case on **13.01.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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

Ex-A/215 of 2016 Inre O.A. No. 288 of 2015

Mukul Saxena Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Ors Respondents
By Legal Practitioner for Respondent - Applicant

Notes of the Registry	Orders of the Tribunal
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Anand Saran, Ld. Counsel for the applicant and Dr. Shesh Narain Pandey,Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. In spite of lapse of almost ten months and time granted earlier, the order of the Tribunal dated 16.03.2016 has not been complied with. Today again a prayer has been made by the respondents to grant further time to comply the order. Subject to payment of compensatory cost of Rs 10,000/- we grant six weeks further time to the respondents to comply order dated 16.03.2016 passed by this Tribunal and file status report. Cost deposited shall be remitted to the applicant by the Registry through cheque. List the case on **23.02.2017** for further orders. **(Air Marshal Anil Chopra)** **(Justice D. P. Singh)** **Member (A)** **Member (J)** anb

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (List A)

M.A. No. 2382 of 2015 in Re O.A. No Nil of 2015

Smt Sharda Subba 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
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri R. Chandra, Ld. Counsel for the applicant and Shri Amit Sharma, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. **M.A. No. 2382 of 2015** Applicant's husband an Army personal is missing since Feb 2004. In consequence thereof applicant claims pensionary benefits. Ld. Counsel for the respondents submits that husband of the applicant was dismissed in 2007 for desertion. It is not disputed that husband of the applicant is missing since Feb 2004 and his whereabouts are not known either to the applicant or the respondents. Prima facie, inference may be drawn that husband of the applicant is missing. Missing of Army personal is a recurring cause of action for post retiral dues. Delay in preferring the O.A. is condoned and O.A. is taken on merit. **Admit.** Counter affidavit may be filed by respondents within six weeks. Applicant may file rejoinder affidavit within two weeks thereafter. List the case on **04.05.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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Court No. 1 (List A)

M.A. No. 48 of 2016 with M.A. No. 1214 of 2016
and M.A. No. 1677 of 2016 in re O.A. No. Nil of 2016

Rajendra 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
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri V.K. Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. **M.A. No. 1214 of 2016** Objection on application for condonation of delay is taken on record. M.A. No. 1214 of 2016 is disposed of. **M.A. No. 1677 of 2016** Reply against objection on application for condonation of delay is taken on record. M.A. No 1677 of 2016 is disposed of. **M.A. No. 48 of 2016** List for orders along with record of O .A. No. 417 of 2012 on **09.03.2017**. Parties counsel shall submit chart of events on the next date. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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Court No. 1 (List A)

M.A. No. 243 of 2016 with M.A. No. 244 of 2016 and M.A. No. 1443 of 2016 in re O.A. No. Nil of 2016

Suraj 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
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri S.K. Pathak, Ld. Counsel for the applicant and Col Kamal Singh, OIC Legal Cell for the respondents. As prayed by OIC Legal Cell, four weeks time is granted to the respondents to file counter affidavit. Applicant shall have two weeks thereafter to file supplementary rejoinder affidavit. List the case on **09.03.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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Court No. 1 (List A)

M.A. No. 2536 of 2016, M.A. No. 2062 of 2016 & M.A. No. 2063 of 2016
Inre O.A. No. Nil of 2016

Smt Rekha 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
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Col (Retd) R.C. Dixit, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. **M.A. No. 2536 of 2016** Objection filed by the respondents on application for amendment is taken on record. M.A. No. 2536 of 2016 is disposed of. Replication against objection on application for amendment is taken on record. **M.A. No 2062 of 2016** Application for amendment is taken on record. M.A. No. 2062 of 2016 is disposed of. **M.A. No. 2063 of 2016** This is an application for amendment of the O.A. preferred against the impugned order of discharge passed during pendency of the present O.A. Allowing the application for amendment shall amount to deal with multiple cause of action barred by Section 14 of the Armed Forces Tribunal Act, 2007. Applicant has option to prefer fresh O.A. with pleadings

	regarding order of discharge. Accordingly we **reject** the application for amendment with liberty to applicant to file fresh O.A. impugning the order of discharge. So far as present O. A. is concerned respondents may file counter affidavit within four weeks. Rejoinder affidavit shall be filed within next two weeks by the applicant. List the case on **13.04.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (List A)

M.A. No. 1459 of 2016

Md. Arshad Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri K.K. Mishra, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. As prayed by Ld. Counsel for the applicant, one week further time is granted to file reply to the objection filed by the respondents. List on **02.03.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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Court No. 1 (List A)

M.A. No. 2340 of 2016 with M.A.No. 2641 of 2016 & M.A. No. 86 of 2017
in re O.A. Nil of 2016

Shri 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
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri Vijay Kumar, Ld. Counsel for the applicant and Shri Virendra Singh, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. **M.A. No. 86 of 2017** Reply to the objection filed by the applicant (rejoinder affidavit) is taken on record. M.A. No. 86 of 2017 is disposed of. **M.A. No. 2340 of 2016** List the case on **20.04.2017** for disposal of application. Ld. Counsel for the applicant shall file Bench copy of M.A. No. 86 of 2017 by the next date. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (List A)

M.A. No. 2435 of 2016 Inre O.A. No Nil of 2016

Ayodhya Prasad 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
	12.01.2017 **Hon'ble Mr. Justice D.P. Singh, Member (J)** **Hon'ble Air Marshal Anil Chopra, Member (A)** Present : Shri S.G. Singh, Ld. Counsel for the applicant and Shri Vijay Pratap Singh, Ld. Counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell. As prayed by Ld. Counsel for the respondents, four weeks further is granted to file objection on application for condonation of delay. Applicant shall have two weeks thereafter to file replication. List the case on **13.04.2017** for orders. **(Air Marshal Anil Chopra)** **(Justice D.P. Singh)** **Member (A)** **Member (J)** anb