

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 2 (Sl. No. 1)

O.A. No. 698 of 2023 with M.A. No. 843 of 2023

Sgt Mahendra Kumar Singh (Retd) Applicant
By Legal Practitioner for the Applicant : Shri Ravi Kumar Yadav, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Ramesh Chandra Shukla, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>03.07.2023</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <ol style="list-style-type: none">1. Memo of Appearance filed by Shri Ramesh Chandra Shukla, Advocate on behalf of the respondents is taken on record. His name be shown as Counsel for the respondents when the case is listed next.2. On the case being taken up for hearing Shri Ravi Kumar Yadav, Ld. Counsel for the applicant and Shri Ramesh Chandra Shukla, Ld. Counsel for the respondents are present.3. This Original Application has been filed against the discharge of the applicant with prayer to reinstate him in service with all consequential benefits and also to consider the applicant under old promotion policy and grant him promotion.4. There is a delay of 09 months in filing of Original Application.5. Delay is condoned for the reasons stated in affidavit filed in support of the Delay condonation application. Delay condonation application stands disposed off. <u>O.A. No. 698 of 2023</u>6. Case needs adjudication.7. Admit.8. 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.9. List on 28.08.2023. <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>RK/-</p>

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ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 2 (Sl. No. 2)

EX-A No. 156 of 2023 Inre: O.A. No. 233 of 2021

Ex Rect Nikhil Singh Tomar Applicant
By Legal Practitioner for the Applicant : Shri Manish Kumar Rai, Advocate

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>03.07.2023</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <ol style="list-style-type: none">1. Memo of Appearance filed by Shri Shailendra Sharma Atal, Advocate on behalf of the respondents is taken on record. His name be shown as Counsel for the respondents when the case is listed next.2. Heard Shri Manish Kumar Rai, Ld. Counsel for the applicant and Shri Shailendra Sharma Atal, Ld. Counsel for the respondents.3. Ld. Counsel for the applicant submits that this execution application has been filed for non compliance of the order dated 03.01.2023 passed by this Tribunal in O.A No. 233/2021 directing the respondents to provide copies of all dismissal documents to the applicant within one month.4. Respondents are directed to comply the order of this Tribunal within a week.5. List this case on 17.07.2023. <p style="text-align: center;">(Maj Gen Sanjay Singh) (Justice Ravindra Nath Kakkar) Member (A) Member (J)</p> <p>RK/-</p>

Form No. 4
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 2 (Sl. No. 3)

M.A. No. 844 of 2023 with M.A. No. 845 of 2023
Inre: O.A. (A) No. 509 of 2021

Union of India & Others Applicant/ Respondents
By Legal Practitioner for the Applicant : Shri Yogesh Kesarwani, Advocate

Versus

Hav Anil Kumar Mishra Respondents/Applicant
By Legal Practitioner for Respondents :

Notes of the Registry	Orders of the Tribunal
	<p><u>03.07.2023</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <ol style="list-style-type: none">1. Heard Shri Yogesh Kesarwani, Ld. Counsel for the applicant / respondents.2. This application has been filed under Section 31 of the Armed Forces Tribunal Act, 2007 against the judgment and order dated 20.04.2023 of this Tribunal in Original Application No. 509 of 2021.3. It is submitted by the Ld. Counsel for the applicants – Union of India & others that applicants want to file Appeal against the decision of this Tribunal, leave be granted for the same and delay in filing of application be condoned.4. In view of the facts stated in affidavit filed in support of delay condonation application, we find that cause shown is sufficient. Accordingly, delay is condoned. Delay condonation application stands disposed off accordingly.5. Upon hearing submission of Ld. Counsel for the applicants, we find that no point of law of general public importance is involved so that leave may be granted.6. Accordingly, Leave to Appeal is dismissed. <p style="text-align: center;">(Maj Gen Sanjay Singh) (Justice Ravindra Nath Kakkar) Member (A) Member (J)</p> <p>RK/-</p>

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Court No. 2 (Sl. No. 4)

EX-A. No. 93 of 2019 Inre: O.A. No. 481 of 2018

Dushyant Singh Applicant
By Legal Practitioner for the Applicant : Shri Santosh Singh, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri RKS Chauhan, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>03.07.2023</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Santosh Singh, Ld. Counsel for the applicant and Shri RKS Chauhan, Ld. Counsel for the respondents are present.</p> <p>2. Ld. Counsel for the respondents submits that compliance has been made and seeks further one week's time to file compliance report. One week's time is granted to the respondents to file compliance affidavit.</p> <p>3. List on 12.07.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>RK/-</p>

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 2 (Sl. No. 5)

O.A. No. 133 of 2023

Smt. Sanjeev, W/o Late Sep Mange Ram Applicant
By Legal Practitioner for the Applicant : Shri KK Misra, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Ashish Kumar Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>03.07.2023</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri KK Misra, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p>2. Ld. Counsel for the respondents prays for further four weeks time to file Counter affidavit. On perusal of order sheet, it transpires that inspite of availing several opportunities respondents have not filed Counter affidavit. As a last opportunity, four weeks time is granted to the respondents to file the Counter affidavit on the condition that if same is not filed by the next date fixed, respondents shall have to pay cost of Rs. 10,000/- which shall be remitted to the applicant.</p> <p>3. List on 14.08.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>RK/-</p>

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 2 (Sl. No. 7)

DY. No. 1434 of 2023

Ex Sub Ajay Kumar Upadhyay Applicant
By Legal Practitioner for the Applicant : Mohd. Umar Khan, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents :

Notes of the Registry	Orders of the Tribunal
	<p><u>03.07.2023</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>1. None present for the parties.</p> <p>2. Perusal of the file reveals that defects indicated by the Registry have not been removed by the applicant. Two weeks time is granted to the applicant to remove the defects.</p> <p>3. List on 04.08.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) (Justice Ravindra Nath Kakkar) Member (A) Member (J)</p> <p>RK/-</p>

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 2 (Sl. No. 6)

O.A. (A). No. 383 of 2023 with M.A. No. 464 of 2023

Ex Nk Durgesh Kumar Applicant
By Legal Practitioner for the Applicant : Shri Virat Anand Singh, Advocate
Shri Rahul Dev Tripathi, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri Amit Jaiswal, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>03.07.2023</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>1. On the case being taken up for hearing Shri Virat Anand Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p><u>M.A. No 464 of 2023</u></p> <p>2. Heard Shri Virat Anand Sigh, learned counsel for the petitioner and Shri Amit Jaiswal, learned counsel for the respondents on Bail application.</p> <p>3. Petitioner has filed O.A. (A) No 383 of 2023 before this Tribunal challenging findings and sentence order dated 12.01.2023 passed by District Court Martial (DCM) whereby the applicant was awarded with sentence of "Reduction of Ranks", Dismissal from service" and one year and three months Rigorous Imprisonment". The petitioner was in military custody since 14.11.2022 and was handed over to Central Jail Gwalior on 20.03.2023. Ld. Counsel for the petitioner submits that the petitioner has already undergone more than 07 months of incarceration out of one year and three months. Petitioner has no involvement for alleged offences and he has wrongly and illegally been convicted by DCM.</p> <p>4. Ld. Counsel for the petitioner further submitted that in a similar case (O.A(A) No. 238/2023, Sep Raj Kumar Yadav Vs UoI & Ors) bail has been granted by this Tribunal vide order dated 31.05.2023. In the instant case, petitioner has filed this bail application under Section 15 (3) of the Armed Forces Tribunal Act 2007 seeking enlargement on regular bail and suspension of sentence.</p>

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5. Ld. Counsel for the respondents opposed bail application and filed objection against it. He submits that bail application is based on fabricated and superficial grounds. Petitioner has committed heinous crime of taking bribe from recruits for enrolment in the army. The petitioner is required by civil agencies on serious charges of fraud. Learned counsel for the respondents pleaded that considering the gravity of offence and involvement of petitioner in other cases, application for grant of bail filed by the petitioner be rejected.

6. Admittedly, the petitioner is languishing in Central Jail Gwalior since 20.03.2023 and has already undergone more than 07 months of incarceration including military custody.

7. Keeping in view that in a similar matter Sep Raj Kumar Yadav has already been granted bail by this Tribunal on 31.05.2023 and petitioner has already served out more than seven months of punishment (including military custody) and mother of petitioner is of old age with deteriorating health conditions, without expressing any opinion on the merits of the case, we deem proper to enlarge the applicant on bail during pendency of Original Application (Appeal).

8. In view of above, the application for bail is allowed and the execution of sentence is hereby suspended. Ex Nk Durgesh Kumar shall be released on bail forthwith on his furnishing a personal bond of Rs. 50,000/- (Fifty Thousand only) with one surety in the like amount to the satisfaction of the Registrar of this Tribunal. On furnishing surety, as stated above, Registrar shall then issue the release order, which in turn will be conveyed to the concerned Jail Superintendent, Central Jail Gwalior, wherein the appellant is presently confined and serving out his sentence. Ex Nk Durgesh Kumar released on bail shall attend Armed Forces Tribunal on each and every date of hearing. He shall not indulge in any criminal activity or commission of any crime after being released on bail. He shall also not leave the country without permission of this Court. In case any complaint with regard to his conduct during the period of bail is received, the respondents will be free to apply for cancellation of the bail granted by this Court.

9. After the release of the petitioner, the bail bonds furnished for his release, shall be kept on record of this Original Application.

10. M.A. NO. 464 of 2023 stands disposed of accordingly.

11. List this case on **17.08.2023** for orders.

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12. Let a copy of this order be supplied to Ld. Counsel for the respondents free of cost forthwith for onward transmission.

(Maj Gen Sanjay Singh)
Member (A)

(Justice Ravindra Nath Kakkar)
Member (J)

RK/-