

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

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.2 (Sl. No. 9)

M.A. No. 1242 of 2023 with M.A. No. 1243 of 2023 Inre O.A. No. 91 of 2023

Col Vijay Narayan Shukla, VSM Applicant

By Legal Practitioner for the Applicant: **Shri Veerendra Mohan, Advocate**
Versus

Union of India & Others Respondents

By Legal Practitioner for Respondents: **Ms. Appoli Srivastava, Advocate**

Notes of the Registry	Orders of the Tribunal
	<p><u>22.09.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Lt Gen Anil Puri, Member (A)</u></p> <p>1. Heard, Shri Veerendra Mohan, Ld. Counsel for the applicant and Ms. Appoli Srivastava, Ld. Counsel for the respondents.</p> <p>2. Applicant has moved application for leave to appeal under Section 31 of Armed Forces Tribunal Act, 2007. It is reported by the Registry that there is delay of 01 month and 11 days in filing this LTA.</p> <p>3. It is provided in Section 31 (2) of AFT Act, 2007 that application may be filed within 30 days from the date of judgment passed by the Tribunal.</p> <p>4. Applicant has moved M.A. No. 1242 of 2023 for condoning the delay in filing leave to appeal.</p> <p>5. Learned counsel for the respondents has filed objection on delay condonation application.</p> <p>6. Reply filed by the applicant on objection of the respondents is taken on record.</p> <p><u>M.A. No. 1242 of 2023</u></p> <p>7. As reported by the Registry, leave to appeal has been filed with delay of 01 month and 11 days.</p> <p>8. It is submitted by learned counsel for the applicant that he has no knowledge about the passing of judgment on 25.05.2023. On 18.07.2023, on inquiry from Registry, it is transpired him that judgment has been passed on 11.07.2023. A request was made to supply copy of judgment by the applicant under the rules which was received on 01.08.2023. It is further submitted that there is no delay in filing application for leave to appeal.</p> <p>9. Learned counsel for the respondents has vehemently opposed the submission made by learned counsel for the applicant and it is submitted by her that it has been wrongly stated that judgment was passed on 11.07.2023 but final order was passed on 25.05.2023 by the Tribunal after adjudicating the matter and there is delay in filing leave to appeal in terms of Section 31 of AFT Act, 2007 and delay has not been explained by the applicant as averred in delay condonation application.</p>

10. After considering the submission made by learned counsel for the parties and perusing the record, we are of the view that delay of 01 month and 11 days as reported by the Registry is not deliberate but it seems to be due to reasons shown in the affidavit and delay condonation application is liable to be allowed. Accordingly, delay in filing leave to appeal is condoned and delay condonation application stands allowed.

M.A. No. 1243 of 2023

11. This application has been filed for grant of leave to appeal.

12. It is submitted by learned counsel for the applicant that there are so many grounds to allow the application. He further submits that order passed by the Tribunal is against the principles of natural justice and mandate of the Hon'ble Apex Court, vague and incorrect denial of facts by the respondents in their counter affidavit were not considered by the Tribunal against the respondents. The Tribunal has ignored the facts of lowering the assessment from Outstanding to Above Average by the same I.O. Judgment has not been passed after framing the issues involved in this case. Judgment is without reason, ignoring the law laid down in Rule 5, Order 20 of Civil Procedure Code and Order 20, Rule 4 (2) of Civil Procedure Code. It was declared and expressed by the Tribunal that the applicant has no case without writing the judgment which is against policy as laid down by the Hon'ble Apex Court.

13. Learned counsel for the respondents has opposed the contention of learned counsel for the applicant and submitted that no point of law of general public importance is involved in this matter and present matter is in *personam*.

14. After considering the submissions of learned counsel for the parties and perusing the record carefully, we are of the considered view that detailed judgment has been passed by the Tribunal and there is no point of law of general public importance is involved in this matter and application for leave to appeal is liable to be rejected.

15. Accordingly, leave to appeal is **rejected**.

(Lt Gen Anil Puri)
Member (A)

(Justice Anil Kumar)
Member (J)

rpm/sb