

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

1. Ex. A No. 303 of 2022 Inre O.A. No. 176 of 2019

Ex. Sep Uday Bir Singh

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>On the case being taken up for hearing Shri Ashish Kumar Singh, Ld. Counsel for the respondents is present.</p> <p>No one is present on behalf of the applicant.</p> <p>Compliance report filed by the respondents is taken on record.</p> <p>Learned counsel for the applicant may file objection, if any, against compliance report by the date fixed.</p> <p style="text-align: center;">List on 09.01.2023.</p> <p>(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: right;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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

2. O.A. No. 692 of 2021

Col. S.K. Dhawan

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>On the case being taken up for hearing Shri Mahendra Kumar Singh, holding brief of Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Kaushik Chetterjee, Ld. Counsel for the respondents are present.</p> <p>Shri Mahendra Kumar Singh, Advocate, submits that his senior Shri Pankaj Kumar Shukla, learned counsel for the applicant is sick and prays for adjournment of the case. Accordingly, case is adjourned.</p> <p style="text-align: center;">List on 04.01.2023.</p> <p>(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: right;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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

3. O.A. No. 145 of 2022

Ex. Sub Ram Kumar Nadar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>On the case being taken up for hearing Shri Vikas Singh Chauhan, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p>Rejoinder affidavit filed by the applicant is taken on record.</p> <p>Pleadings have been exchanged and case is ripe for hearing.</p> <p>List on 19.01.2023 for final hearing.</p> <p>On the date fixed, learned counsel for the respondents shall produce original documents pertaining to case for perusal of the Bench.</p> <p style="text-align: center;">(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

Form No. 4
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ORDER SHEET
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Court No.2

4. O.A. No. 301 of 2022

Ex. JWO Anil Kumar Sharma
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>On the case being taken up for hearing Shri Rama Kant, Ld. Counsel for the applicant and Dr. S. N. Pandey, Ld. Counsel for the respondents are present.</p> <p>Counter affidavit filed by the respondents is taken on record. Copy of counter affidavit has been served upon learned counsel for the applicant today in the Court.</p> <p>Learned counsel for the applicant prays for and is granted four weeks' time to file rejoinder affidavit.</p> <p style="text-align: center;">List on 04.01.2023.</p> <p style="text-align: center;">(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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5. O.A. No. 394 of 2022

Ex. JWO Sita Ram

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>On the case being taken up for hearing Shri V.P. Pandey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>As a last opportunity, two weeks further time is granted to respondents to file counter affidavit.</p> <p>List on 09.01.2023.</p> <p style="text-align: center;">(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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ORDER SHEET
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Court No.2

6. O.A. No. 404 of 2022

Gp. Capt. Rajesh Kumar Mishra (Retd)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>Heard Wg. Cdr. S.N. Dwivedi (Retd), Ld. Counsel for the applicant and Shri Bipin Kumar Singh, Ld. Counsel for the respondents and perused the documents available on record.</p> <p>O.A. No. 404 of 2022, Ex Gp Capt Rajesh Kumar Mishra, vs. Union of India and others is allowed.</p> <p>For order, see our judgment passed on separate sheets.</p> <p>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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O.A. No. 417 of 2022

Ex. Nk Sandeep Kumar Pondey
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>Heard Shri Vinay Pandey and Shri Prasoon Kumar Anjor, Ld. Counsel for the applicant and Shri Bipin Kumar Singh, Ld. Counsel for the respondents and perused the documents available on record.</p> <p>O.A. No. 417 of 2022, Ex Nk Sandeep Kumar Pondey, vs. Union of India and others is allowed.</p> <p>For order, see our judgment passed on separate sheets.</p> <p>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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8. O.A. No. 474 of 2022

Ex. AC (U/T) Amit Kumar Upadhyay
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>On the case being taken up for hearing Shri Raj kumar Mishra, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents are present.</p> <p>In spite of granting last opportunity, respondents have not filed counter affidavit.</p> <p>Today again, learned counsel for the respondents is praying for one more opportunity to file counter affidavit.</p> <p>Three days further time is granted to respondents to file counter affidavit, with the condition that in case, counter affidavit is not filed by the date fixed, case shall be decided on merit on the basis of material available on record.</p> <p style="text-align: center;">List on 15.12.2022.</p> <p style="text-align: center;">(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.2

9. O.A. No. 476 of 2022

MWO (HFO) Mahesh Pal (Retd)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>Heard Shri Raj kumar Mishra and Shri A.K. Chaudhary, Ld. Counsel for the applicant and Shri G.S. Sikarwar, Ld. Counsel for the respondents and perused the documents available on record.</p> <p>O.A. No. 476 of 2022, Ex MWO Mahesh Pal, vs. Union of India and others is allowed.</p> <p>For order, see our judgment passed on separate sheets.</p> <p>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p>(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p>(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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Court No.2

10. O.A. No. 624 of 2022

Ex. HFO Chandra Prakash Srivastava
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>On the case being taken up for hearing Shri Abhishek Singh and Sudhir Kumar Singh, Ld. Counsel for the applicant and Ms. Deepti Prasad Bajpai, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted four weeks further time to file counter affidavit.</p> <p>Rejoinder affidavit, if any, may be filed by learned counsel for the applicant within two weeks, thereafter.</p> <p style="text-align: center;">List on 16.01.2023.</p> <p style="text-align: center;">(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.2

11. O.A. No. 67 of 2018

Sep. Arun Kumar Misra
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>On the case being taken up for hearing Maj RD Singh (Retd), Ld. Counsel for the applicant and Major Tarun, OIC, Legal Cell are present.</p> <p>On perusal of record, it transpires that supplementary counter affidavit has not been filed by the respondents in terms of order dated 10.02.2022.</p> <p>List on 10.01.2023.</p> <p>In the meantime, learned counsel for the respondents may file supplementary counter affidavit.</p> <p>On the date fixed, learned counsel for the respondents shall produce original documents pertaining to case for perusal of the Bench.</p> <p style="text-align: center;">(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

Form No. 4
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.2

12. O.A. No. 640 of 2022.

Ex Sgt Gyanendu Yadav

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>Heard Shri Bipin Kumar Sharma, Shri Kapil Sharma and Shri Raj Kumar Mishra, Ld. Counsel for the applicant and Shri Vishwesh Kumar, Ld. Counsel for the respondents.</p> <p>Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 20.06.2001 and retired on 30.06.2021 is entitled for grant of last increment due on 01.07.2021 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, Ex HFL Sarvesh Kumar vs. Union of India & Ors, decided on 12.08.2021.</p> <p>On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2021 as per policy in vogue since the date of annual</p>

increment falls on the following day i.e. 01.07.2021. Therefore, benefit of the Hon'ble Madras High Court order being *in personam* cannot be extended to the applicant and hence, Original Application is liable to be dismissed.

The law on notional increment has already been settled by the Hon'ble Madras High Court in the case of ***P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others*** (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No.22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-

“5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its Secretary to Government, Finance Department and others v. M. Balasubramaniam, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2021, but the increment fell due on the next day of his retirement 01.07.2021, on which date he was not in service, he has to be treated as having completed one full year of service.

In view of the above, the Original Application is allowed. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2020 to 30.06.2021, as he has completed one full year of service, though his increment fell on 01.07.2021, for the purpose of pensionary benefits and not for any other purpose. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @8% per annum till the actual payment

Let a copy of this order be provided to the learned Counsel for the parties.

(Lt. Gen Rakesh Kumar Anand)
Member (A)

(Justice Ravindra Nath Kakkar)
Member (J)

Ukt/-

Form No. 4

{See rule 11(1)}

ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No.2

13. O.A.(A) No. 391 of 2018.

Ravinder Singh (through Smt. Surekha Legally wedded Wife) Applicant
By Legal Practitioner for the Applicant

Versus

Chief of Army Staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>On the case being taken up for hearing Shri Yashpal Singh, holding brief of Shri Rohit Kumar, Ld. Counsel for the applicant and Shri Kaushik Chatterjee, Ld. Counsel for the respondents are present.</p> <p>Shri Yashpal Singh, Advocate, submits that Shri Rohit Kumar, learned counsel for the applicant is out of station and prays for adjournment of the case. Accordingly, the case is adjourned.</p> <p>List on 16.01.2023.</p> <p>(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p>(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.2

14. O.A. No. 374 of 2019

Sgt Sarwan Kumar

By Legal Practitioner for the Applicant

Applicant

Versus

Chief of Air Staff & Others & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p>Heard Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents.</p> <p>Learned counsel for the applicant submits that applicant has now been dismissed from service and he wants to challenge dismissal order. He prays for time to file amendment application.</p> <p>List on 17.01.2023.</p> <p>On the date fixed, learned counsel for the applicant shall satisfy the Court that amendment sought shall not change nature of the case.</p> <p style="text-align: center;">(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>

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Court No.2

15.

...
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</u> <u>Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)</u> <u>Hon'ble Lt. Gen Rakesh Kumar Anand, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri , Ld. Counsel for the applicant and Shri , Ld. Counsel for the respondents are present. List on</p> <p style="text-align: center;">(Lt. Gen Rakesh Kumar Anand) Member (A)</p> <p style="text-align: center;">(Justice Ravindra Nath Kakkar) Member (J)</p> <p>Ukt/-</p>