

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

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No.3 (Sl. No. 1)

O.A. No. 123 of 2023 With M.A. No. 120 of 2023

Ex WO Naval Kishore

Applicant

By Legal Practitioner for the Applicant:

Shri VP Pandey, Advocate
Shri Rakesh Kumar 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>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain , Member (A)</u></p> <p>Memo of appearance filed by Shri RKS Chauhan, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list when the case is listed next.</p> <p>On the case being taken up for hearing Shri VP Pandey and Shri Rakesh Kumar Singh, Ld. Counsel for the applicant and Shri RKS Chauhan, Ld. Counsel for the respondents are present.</p> <p><u>M.A. No. 120 of 2023</u></p> <p>This is an application for condonation of delay in filing Original Application.</p> <p>As per office report, there is a delay of 03 years, 01 month and 12 days in filing original application.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents opposing the prayer submits that explanation of delay offered by the applicant is not sufficient and he has failed to offer day to day explanation of delay.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p><u>O.A. No. 123 of 2023</u></p> <p>Matter needs adjudication.</p> <p>Admit.</p> <p>Learned counsel for the respondents prays for and is granted four weeks time to file counter affidavit, to which rejoinder affidavit, if any, may be filed by learned counsel for the applicant within next two weeks.</p> <p>List on 07.03.2023.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p>(Justice Anil Kumar) Member (J)</p>

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

EX-A No. 24 of 2023 Inre O.A. No. 254 of 2018

Ex Hav Bidhi Narayan Applicant
By Legal Practitioner for the Applicant: Shri Ashok Bhardwaj, Advocate

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain , Member (A)</u></p> <p>Memo of appearance filed by Dr. Shailendra Sharma Atal, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list when the case is listed next.</p> <p>On the case being taken up for hearing Shri Ashok Bharadwaj, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>This application has been filed for execution of order dated 16.02.2022 passed in O.A. No. 254 of 2018.</p> <p>Learned counsel for the respondents seeks and is allowed four weeks time to seek instructions and file affidavit of compliance.</p> <p>List on 24.02.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p><i>rathore</i></p>

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

EX-A No. 272 of 2022 Inre O.A. No. 637 of 2020

MWO (HFO) Surya Bhan Singh Applicant
By Legal Practitioner for the Applicant: Shri Shailendra Kumar Singh, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents: Shri SN Pandey, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain , Member (A)</u></p> <p>On the case being taken up for hearing Shri Shailendra Kumar Singh, Ld. Counsel for the applicant and Shri SN Pandey, Ld. Counsel for the respondents are present.</p> <p>Compliance report filed by the respondents is taken on record.</p> <p>Objection, if any, shall be filed by learned counsel for the applicant within two weeks.</p> <p>List on 07.03.2023.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p>(Justice Anil Kumar) Member (J)</p>

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ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 4)

EX-A No. 302 of 2022 Inre O.A. No. 256 of 2020

Smt Haruli Devi W/O Late Ex Sep Ram Prasad Applicant
By Legal Practitioner for the Applicant: Shri Ashok Kumar, Advocate
Shri Vinod Kumar, Advocate

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>On the case being taken up for hearing Shri Ashok Kumar and Shri Vinod Kumar, Ld. Counsel for the applicant and Shri Rajesh Shukla, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted four weeks time to file affidavit of compliance.</p> <p>List on 21.03.2023.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p>(Justice Anil Kumar) Member (J)</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 5)

EX- A. No. 347 of 2022Inre O. A. No. 818 of 2021

Smt Geeta Mishra M/O Late PNR Reetesh Mishra Applicant
By Legal Practitioner for the Applicant: Shri Vijay Kumar Pandey, Advocate

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>On the case being taken up for hearing Shri Vijay Kumar Pandey, Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents are present.</p> <p>Affidavit of compliance filed by learned counsel for the respondents is taken on record.</p> <p>Learned counsel for the applicant may file objection, if any, within two weeks.</p> <p>List on 20.03.2023.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A)</p> <p>(Justice Anil Kumar) Member (J)</p> <p><i>rathore</i></p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 6)

O. A. No. 194 of 2022

Hony Nb Sub Shiv Mohan Tiwari Applicant
By Legal Practitioner for the Applicant: Shri Ravi Kumar Yadav, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents: Shri Anurag Mishra, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p style="text-align: center;">Heard Shri Ravi Kumar Yadav, Ld. Counsel for the applicant and Shri Anurag Mishra, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Order.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p><i>rathore</i></p>

{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 7)

O. A. No. 421 of 2022

Ex Sub Maj (HonyCapt) Akhilesh Kumar Applicant
By Legal Practitioner for the Applicant: Shri Rohitash Kumar Sharma, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents: Ms. Preeti Mala, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>On the case being taken up for hearing Shri Rohitash Kumar Sharma, Ld. Counsel for the applicant is present.</p> <p>Maj Tarun Pillai, Departmental Representative submits that Ms Preeti Mala, learned counsel for the respondents is not present.</p> <p>On request of Maj Pillai, the case is passed over for the day.</p> <p>List on 21.02.2023.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A)</p> <p>(Justice Anil Kumar) Member (J)</p> <p><i>rathore</i></p>

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 8)

O. A. No. 422 of 2022

Ex Sub Ajay Kumar Awasthi Applicant
By Legal Practitioner for the Applicant: Shri Rohitash Kumar Sharma, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents: Shri Asheesh Agnihotri, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>Heard Shri Rohitash Kumar Sharma, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents.</p> <p>Pleadings are complete. Matter needs further hearing.</p> <p>List on 21.02.2023.</p> <p>On the date fixed, learned counsel for the applicant shall produce legible copies of documents showing all details pertaining to the case.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p>(Justice Anil Kumar) Member (J)</p>

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 9)

O. A. No. 755 of 2022 with M.A. No. 1148 of 2022 & M.A. No. 925 of 2022

Smt Dhanavati Window of Late Ex Sigmn Vijay Kumar Applicant
By Legal Practitioner for the Applicant: Shri Sarvesh Kumar Verma, 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>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. This is an application for grant of family pension to widow of a deceased soldier who was enrolled in the Army on 19.08.1983 and dismissed from service w.e.f. 25.10.2002 being declared a deserter and subsequently died on 06.10.2020.</p> <p>2. The applicant who is stated to be wife of a deceased soldier has filed this O.A. challenging order of dismissal after more than 20 years.</p> <p>3. Heard Shri Sarvesh Kumar Verma, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents.</p> <p>4. Submission of learned counsel for the applicant is that applicant's husband took part in Kargil War and after that he was granted 32 days part of annual leave for the period 08.07.1999 to 08.08.1999. It was further submitted that owing to some domestic compulsions he could not rejoin duty in time and later he was declared a deserter which resulted in his dismissal from service.</p> <p>5. Further submission of learned counsel for the applicant is that during lifetime her husband had written a letter dated 23.08.1999 explaining reasons for his overstay of leave but no heed was given on this application. It is also contended that in the year 2019 applicant's husband had submitted a mercy appeal for grant of pension which was replied by the respondents denying pension quoting Regulation 41 of Pension Regulations for the Army, 2008 (Part-I). However, some documents were asked which could not be supplied due to her illiteracy and poor financial condition.</p> <p>6. The applicant in her application for condonation of delay has relied upon various judgments not only of the Hon'ble Supreme Court but also of Hon'ble High Courts and of this Tribunal to say that since the applicant is claiming pension which is a recurring cause of action, delay should be condoned. In our considered opinion, this principle for condonation of delay is applicable to</p>

pension cases and will not apply in the case of the applicant. The applicant's husband was dismissed from service and the dismissal order being not challenged during his lifetime has attained the finality. More so, a dismissed employee is not entitled to pension.

7. Now, after such a long period of time the applicant wants her husband's dismissal be converted into discharge and by treating him to be discharged from service after completing more than 16 years service and therefore making eligible for pension. In our considered view, once an employee stands dismissed from service and dismissal has attained finality, claim for pension cannot be allowed. Subsequently, on death of applicant's husband the applicant claiming to be widow of the deceased soldier is also not entitled to family pension. Further no reasonable cause or justification has been given for condoning the delay of more than 20 years in approaching this Tribunal.

8. We are, therefore, of the considered view that it is not a fit case where we should exercise our jurisdiction and entertain this application on merit. Finding no merit in the application for condonation of delay, application for condonation of delay stands dismissed. Consequently, O.A. filed under Section 14 of the Armed Forces Tribunal Act, 2007 also stands dismissed.

(Vice Admiral Atul Kumar Jain)
Member (A)

(Justice Anil Kumar)
Member (J)

rathore

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 10)

O. A. No. 759 of 2022

Ex HavVishweshwarDayal Applicant
By Legal Practitioner for the Applicant: Shri Vijay Kumar Pandey, Advocate
Shri Girish Tiwari, Advocate
Ms. Sunita Singh, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents: Shri Alok Kumar Mishra, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>Heard Shri Vijay Kumar Pandey, Shri Girish Tiwari and Ms. Sunita Singh, Ld. Counsel for the applicant and Shri Alok Kumar Mishra, Ld. Counsel for the respondents.</p> <p>The matter was heard at length but it requires further hearing.</p> <p>List on 24.03.3023 for hearing.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) Member (A)</p> <p style="text-align: right;">(Justice Anil Kumar) Member (J)</p> <p><i>rathore</i></p>

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 11)

O. A. No. 820 of 2022

Ex Hav (ACP Nb Sub) Gitam Singh Applicant
By Legal Practitioner for the Applicant: Shri KP Datta, Advocate

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>1. This O.A. has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant whereby the applicant has sought following reliefs:-</p> <p>(a) To issue/pass an order or direction to the respondents to refix/revise the pay matrix to Rs 46,200/- as per directions issued by Govt of India on 26.02.2019 and in light of order passed in similar cases by the Hon'ble AFT with other consequential benefits.</p> <p>(b) To issue/pass an order or direction to the respondents to grant him enhanced rate of service pension and other retiral dues accrued from date of discharge w.e.f. 30.04.2019.</p> <p>(c) To issue/pass directions for grant of arrears and interest @ 18% on arrears accrued to the applicant after revision of his pay matrix along with due drawn audit report w.e.f. 30.04.2019.</p> <p>(d) To issue/pass any other order or directions as may deem just, fit and proper under the circumstances of the case in his favour.</p> <p>2. Supplementary counter and rejoinder affidavits filed by the parties are taken on record.</p> <p>3. The factual matrix on record is that the applicant was enrolled in the Army on 27.04.1993. During the course of his service he was promoted to the rank of Havildar w.e.f. 07.08.2014 with antedate seniority w.e.f. 01.07.2014. He was granted MACP Naib Subedar w.e.f. 01.05.2017 and occurrence to this effect was published vide Part II Order dated 08.07.2017. He was discharged from service w.e.f. 30.04.2019 (AN) on completion of terms of engagement having rendered more than 26 years service. He is in receipt of service pension vide PPO No 185201900360 dated 19.03.2019 (Annexure A-3 to O.A.). The grouse of the applicant is that he is</p>

entitled to pay matrix @ Rs 46,200/- p.m., which his course mates are receiving, as per Govt of India letter dated 26.02.2019 and in light of various orders passed by this Tribunal.

4. As per IHQ of MoD (Army)/AG/MP-8 (I of R) letter No A/20038/Appx 'J'/MP-8 (I of R) (ADP) (i) dated 08.08.2017, all JCOs/OR who were in service on or after 31.12.2015 and before 03.05.2017 or any other date, if any extension is given by the Govt and have been granted any promotion/increment/MACP during the periods, were required to submit option in writing regarding fixation of their revised pay as per 7th CPC. The option certificate for revision of basic pay was required to be submitted to Record Office with effect from 01.01.2016 and before 03.05.2017. The applicant was required to exercise the option for fixation of his pay as per time frame provided but he exercised the option belatedly which was rejected; hence his pay fixation was done as per the provisions of para 6 (3) of SRO which stipulates that "If the intimation regarding option is not received by the Pay Accounts Office within one hundred and eighty days of the date of notification of these rules, the JCOs/OR shall be deemed to have elected to govern by the revised pay structure with effect from 1st day of January, 2016." Aggrieved, the applicant has filed this Original Application.

5. Learned counsel for the applicant submitted that numerous correspondence were made in this regard to respondent No 3 and 4 and letter dated 17.11.2021 was also forwarded by Records AMC to PAO (OR) to remit his dues through NEFT but respondent No 4 has taken no remedial measures even after sending several reminders on this issue. He further submitted that his batchmates and juniors are getting more pension than the applicant which is resulting in huge loss to him. However, he was informed verbally that he has not exercised the option in time required as per Govt of India letter dated 08.08.2017 that's why his pay was not revised as per recommendations of 7th Pay Commission and he is getting less pension than his batch mates. The learned counsel further submitted that JCOs/OR who were in service on or after 31.12.2015 and before 03.05.2017 or on any other date, if any extension is given by the Govt and have been granted any promotion/increment/MACP during the periods, were required to be submit form of option (option certificate) in writing regarding fixation of their revised pay as per 7th CPC in terms of policy letter dated 08.08.2017 but the applicant did

not exercise this option in time due to unawareness which resulted in incorrect fixation of band pay and thereafter, pension. Learned counsel for the applicant has quoted that Havildar (ACP Nb Sub) Sushil Kumar, retired on same date on which the applicant was discharged, is getting more pension than the applicant. In support of his contention learned counsel for the applicant has relied upon order dated 04.01.2018 passed in O.A. No. 156 of 2016, **Hav Jog Dhyan Sharma vs UOI & Ors**, order dated 19.02.2021 passed in O.A. No. 194 of 2018, **Anil Kumar Singh vs UOI & Ors**, order dated 23.02.2021 passed in O.A. No. 368 of 2019, **Ex Hav Ajeet Kumar vs UOI & Ors** and order dated 23.02.2021 passed in O.A. No. 37 of 2020, **Hav (AA) Shiv Saran vs UOI & Ors**. He pleaded for grant of pension in the revised pay matrix.

6. On the other hand Learned Counsel for the respondents submitted that as per IHQ of MoD (Army)/AG/MP-8 (I of R) letter No A/20038/Appx 'J'/MP-8 (I of R) (ADP) (i) dt 08.08.2017, all JCOs/OR who were in service on or after 31.12.2015 and before 03.05.2017 or any other date, if any extension is given by the Govt and have been granted any promotion/increment/MACP during the periods, were required to submit option in writing regarding fixation of their revised pay as per 7th Pay Commission. The option certificate for revision of basic pay was required to be submitted to Record Office during the period 01.01.2016 to 03.05.2017. The applicant was required to exercise the option for fixation of his basic pay as per time frame provided but he exercised the option belatedly which resulted in its rejection; hence his pay fixation was done as per the provision of Para 6 (3) of SRO. It was further submitted that the applicant was absent without leave (AWL) for the period 07.04.2006 to 10.04.2006 for which he forfeited his annual increment due on 01.07.2006, therefore his junior is in receipt of one additional increment which resulted in difference of pay/pension. He submitted that pay of the applicant has been fixed correctly as per the existing rule. He further submitted that Original Application being devoid of merit and lacking substance is recommended to be dismissed in the interest of justice.

7. Heard Shri KP Datta, Ld. Counsel for the applicant and Shri RC Shukla, Ld. Counsel for the respondents.

8. Case of the applicant as spelt out in the instant O.A. is, that applicant's pay was required to be fixed in the manner which was

more beneficial to him irrespective of giving of option or otherwise as per ACP Scheme and recommendations of 5th Central Pay Commission which was revised with three financial upgradations i.e. after 8 years, 16 years and 24 years of service and Modified Assured Career Progression (MACP) Scheme which took place with effect from 01.09.2008. The benefits of this Scheme despite having completed 26 years of service was not extended to the applicant because of non exercising of option on time/late submission of option certificate as per Government of India, Ministry of Defence Office Memorandum No 1(20)/2017/D (Pay/Services) dated 26.02.2019 which is reproduced below :-

"Clarification on availability of Option for fixation of pay on promotion from the date of next increment (DNI) in the lower post and method of fixation of pay from DNI, if opted for, in respect of Army Pay Rules 2017, Air Force Pay Rules 2017 and Navy Pay Regulations 2017 in respect officers and JCOs/OR equivalent.

1. *Reference is invited to Ministry of Defence O.M. of even No dated 22.03.2018. In this connection, it is stated that the Option is to be exercised within three months from the date of promotion, to have pay fixed under these provisions from the date of such promotion, to have pay fixed under these provisions from the date of such promotion or to have the pay fixed from the date of actual of next increment in the scale of the pay in lower grade.*

2. *For all personnel who have been promoted in the interim period (from 01 January 2016 until the issuance of this O.M), the Option is to be exercised within six months of issuance of this O.M. Further, Option for pay fixation on promotion, once exercised is final.*

3. *This issues with the concurrence of Defence (Finance) vide their I.D. No. 1(8)/2017-AG/PA-35 dated 05.02.2019."*

9. In view of the submissions made by the learned counsel for the parties and above policy letter, it is clear that fact is not in dispute. The only dispute is with regard to the effect of non submission of option for fixation of pay within the period stipulated in the instructions i.e. from 01.01.2016 and before 03.05.2017. In fact the issue has already been settled by the Principal Bench, AFT, New Delhi vide order dated 10.12.2014 passed in a bunch of cases with O.A. 113 of 2014, **Sub Chittar Singh and Ors vs. UOI and Ors**, wherein benefit has been granted to the applicants who were denied correct fixation of pay due to not exercising the option on time.

10. In addition to above, we are of the considered opinion that PAO (OR) should have regulated the fixation of pay that would be

beneficial (out of the two options mentioned in the scheme) to the applicant but they did not do so. Such exercise should have been done before putting the applicant in a particular pay scale. At this juncture, we may recapitulate that the applicant is put in disadvantageous pay scale because of the reason that allegedly he has not exercised the option in time and admittedly because of the default he is said to be placed in lower pay scale than the pay scale given to his own colleagues, in the same rank and same service. We have not found a single reason on the basis of which it can be justified that in the same rank and in the same cadre, there can be and there should be two pay scales without their being any reasonable classification. The only ground for denial of the pay scale of the applicant is due to non/late submission of the option. In such situation the respondents themselves should have taken steps to remove this anomaly when they came to know that the applicant has not submitted his option due to unawareness of the policy in time and the applicant is going to get less pay than his colleagues in the same rank and service, due to which they will suffer heavy loss.

11. Thus, in the result, the O.A. succeeds and is **allowed**. The respondents are directed to revise the Pay of the applicant @ Rs 46,200/- per month by granting upgradation as per ACP/MACP Schemes with all retiral benefits from the due date. We direct the respondents to pay the arrears accrued after fixation of pay to Rs 46,200/- per month within a period of three months from the date of receipt of a certified copy of this order failing which it shall carry interest @ 8% per annum from the due date till date of actual payment.

12. No order as to costs.

13. Pending application(s), if any, are disposed off.

(Vice Admiral Atul Kumar Jain)
Member (A)

(Justice Anil Kumar)
Member (J)

rathore

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 12)

O. A. No. 863 of 2022 with M.A. No. 1094 of 2022

Smt Hemlata W/O Late EX Sep Manoj Kumar Applicant
By Legal Practitioner for the Applicant: Shri Veer Raghav Chaubey, Advocate

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>Vakalat Nama filed by Md Zafar Khan, Advocate on behalf of respondent No 5 is taken on record. His name shall be shown in the cause list when the case is listed next.</p> <p>On the case being taken up for hearing Shri Veer Raghav Chaubey, Ld. Counsel for the applicant and Shri RC Shukla, Ld. Counsel for the respondents are present.</p> <p>Counter affidavit on behalf of respondent No 1 to 3 filed by learned counsel for the respondents is taken on record.</p> <p>Learned counsel for the applicant may file rejoinder affidavit, if any, within two weeks.</p> <p>Service of notice to respondent No 4 is deemed to be sufficient.</p> <p>None appeared on behalf of the respondent No 4. The case shall proceed ex-parte against respondent No 4.</p> <p>List on 29.03.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 13)

O. A. No. 1027 of 2022 with M.A. No. 1237 of 2022

Hony Sub Mahboob Ali (Retd) Applicant
By Legal Practitioner for the Applicant: Shri Santosh Singh, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents: Shri Devesh Kumar Mishra, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></p> <p>On the case being taken up for hearing Shri Santosh Singh, Ld. Counsel for the applicant and Shri Devesh Kumar Mishra, Ld. Counsel for the respondents are present.</p> <p>Objection filed by learned counsel for the respondents is taken on record.</p> <p><u>M.A. No. 1237 of 2022</u></p> <p>This is an application for condonation of delay in filing Original Application.</p> <p>As per office report, there is a delay of 14 years, 05 months and 13 days in filing original application.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents opposing the prayer submits that explanation of delay offered by the applicant is not sufficient and he has failed to offer day to day explanation of delay.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p><u>O.A. No. 1027 of 2022</u></p> <p>Matter needs adjudication.</p> <p>Admit.</p> <p>Learned counsel for the respondents prays for and is granted four weeks time to file counter affidavit, to which rejoinder affidavit, if any, may be filed by learned counsel for the applicant within next two weeks.</p> <p>List on 29.03.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 14)

O. A. No. 1079 of 2022 with M.A. No. 1286 of 2022

Chandra Kali Devi, W/O Late EX LS Narendra Singh Applicant
By Legal Practitioner for the Applicant: Shri Sharad Kumar Srivastava, 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>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain Member (A)</u></p> <p>On the case being taken up for hearing Shri Sharad Kumar Srivastava, Ld. Counsel for the applicant and Shri Amit Jaiswal, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted two weeks further time to file objection.</p> <p>List on 28.03.2023.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p>(Justice Anil Kumar) Member (J)</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 15)

O. A. No. 220 of 2016

RadheyShyam Applicant
By Legal Practitioner for the Applicant: Shri Shailendra Kumar Singh, 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>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing Shri Ashish Kumar Singh, Ld. Counsel for the respondents is present.</p> <p style="text-align: center;">In the interest of justice, the case is passed over for the day.</p> <p style="text-align: center;">List on 29.03.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p><i>rathore</i></p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 16)

O. A. No. 258 of 2017

Akil Ahmed Ansari Applicant
By Legal Practitioner for the Applicant: Shri VP Pandey, Advocate

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain Member (A)</u></p> <p>On the case being taken up for hearing Shri SM Mustaq, Advocate holding brief for Shri VP Pandey, Ld. Counsel for the applicant and Shri RC Shukla, Ld. Counsel for the respondents are present.</p> <p>On request of brief holder the case is passed over for the day.</p> <p>List on 22.03.2023.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p>(Justice Anil Kumar) Member (J)</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 17)

O. A. No. 229 of 2021

Ex Lance Nk Ram Soorat Mishra Applicant
By Legal Practitioner for the Applicant: Shri Yashpal Singh, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents: Shri Asheesh Agnihotri, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain Member (A)</u></p> <p>On the case being taken up for hearing Mohd Zafar Khan, Advocate holding brief for Shri Yashpal Singh, Ld. Counsel for the applicant and Shri Asheesh Agnihotri, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is allowed two weeks time to file reply to supplementary affidavit.</p> <p>List on 07.03.2023.</p> <p style="text-align: center;">(Vice Admiral Atul Kumar Jain) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p><i>rathore</i></p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 18)

O. A. No. 258 of 2021

Ex JWO Manoj Kumar Applicant
By Legal Practitioner for the Applicant: Shri Pankaj Kumar Shukla, 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>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain Member (A)</u></p> <p>On the case being taken up for hearing Shri Mahendra Kumar, holding brief for Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p>On request of brief holder, the case is passed over for the day.</p> <p>List on 22.03.2023.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p>(Justice Anil Kumar) Member (J)</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 19)

O. A. No. 781 of 2021

Ex Rifleman Sunder Singh

Applicant

By Legal Practitioner for the Applicant: Shri KKS Bisht, Advocate

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents: Shri Gyan Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain Member (A)</u></p> <p>On the case being taken up for hearing Shri DK Dixit, Advocate holding brief for Shri KKS Bisht, Ld. Counsel for the applicant and Shri Gyan Singh, Ld. Counsel for the respondents are present.</p> <p>On request of brief holder, the case is passed over for the day.</p> <p>List on 22.03.2023.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p>(Justice Anil Kumar) Member (J)</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 20)

O. A. No. 360 of 2022

Smt Kamla Devi, W/o Late Reservist Ram Nath Applicant
By Legal Practitioner for the Applicant: Shri Pankaj Kumar Shukla, Advocate

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>06.02.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Vice Admiral Atul Kumar Jain Member (A)</u></p> <p>On the case being taken up for hearing Shri Mahendra Kumar, Advocate holding brief for Shri Pankaj Kumar Shukla, Ld. Counsel for the applicant and Shri Gyan Singh, Ld. Counsel for the respondents are present.</p> <p>On request of brief holder the case is passed over for the day.</p> <p>List on 22.03.2023.</p> <p>(Vice Admiral Atul Kumar Jain) Member (A) <i>rathore</i></p> <p>(Justice Anil Kumar) Member (J)</p>