

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

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 1)

O.A. No. 132 of 2023 with M.A. No. 138 of 2023

Ex JWO Manikant Pathak Applicant
By Legal Practitioner for the Applicant: Shri Amit Asthana, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents: Shri Manu Kumar Srivastava, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>08.02.2023</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 Manu Kumar Srivastava, 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 Amit Asthana, Ld. Counsel for the applicant and Shri Manu Kumar Srivastava, Ld. Counsel for the respondents are present.</p> <p><u>M.A. No. 138 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 04 months and 23 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. 132 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 24.03.2023.</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. 2)

O.A. No. 136 of 2023 with M.A. No. 133 of 2023

Ex Nk Chinta Ram

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 Alok Kumar Mishra, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>08.02.2023</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 Alok Kumar Mishra, 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 Alok Kumar Mishra, Ld. Counsel for the respondents are present.</p> <p><u>M.A. No. 133 of 2023</u></p> <p>This is an application for condonation of delay in filing Original Application. As per office report, there is a delay of 05 months in filing original application. 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. 136 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 24.03.2023.</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. 3)

O.A. No. 137 of 2023 with M.A. No. 134 of 2023

Ex WO (HFL) Shiv Narayan

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: Mrs Amrita Chakraborty, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>08.02.2023</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 Mrs Amrita Chakraborty, 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 Mrs Amrita Chakraborty, Ld. Counsel for the respondents are present.</p> <p>This O.A. has been filed with delay of 04 years, 01 month and 13 days for which an application for condonation of delay has been filed.</p> <p>Learned counsel for the respondents prays for and is allowed 03 weeks time to file objection on application for condonation of delay.</p> <p>List on 05.04.2023.</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. 4)
O.A. No. 139 of 2023 with M.A. No. 135 of 2023

Ex Gdsm (MACP-1 Nk) Basant Kumar Applicant
By Legal Practitioner for the Applicant: Shri Bhanu Pratap Singh Chauhan, Advocate
Versus
Union of India & Others Respondents
By Legal Practitioner for Respondents: Shri Arun Kumar Sahu, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>08.02.2023</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 Arun Kumar Sahu, 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 Bhanu Pratap Singh Chauhan, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents are present.</p> <p><u>M.A. No. 135 of 2023</u></p> <p>This is an application for condonation of delay in filing Original Application. As per office report, there is a delay of 05 months in filing original application. 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. 139 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 03.04.2023.</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. 5)

O.A. No. 143 of 2023 with M.A. No. 141 of 2023

Ex Hav (GD) Jagpal Singh Applicant
By Legal Practitioner for the Applicant: Ms. Shreya Saxena, Advocate

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>08.02.2023</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 Rajiv Pandey, 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 Ms. Shreya Saxena, Ld. Counsel for the applicant and Shri Rajiv Pandey, Ld. Counsel for the respondents are present.</p> <p>There is delay of 13 years, 07 months and 17 days in filing Original Application for which an application for condonation of delay has been filed.</p> <p>Learned counsel for the respondents prays for and is allowed 03 weeks time to file objection on application for condonation of delay.</p> <p>List on 05.04.2023.</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>

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 6)

O.A. No. 146 of 2023 with M.A. No. 143 of 2023

Smt Kiran Devi, Daughter-in-Law
Late Ex HavDhani Ram Kamal Applicant
By Legal Practitioner for the Applicant: Shri Balwant Rai, 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>08.02.2023</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 Balwant Rai, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>There is delay of 10 years, 04 months and 16 days in filing Original Application for which an application for condonation of delay has been filed.</p> <p>Learned counsel for the respondents prays for and is allowed 03 weeks time to file objection on application for condonation of delay.</p> <p>List on 10.04.2023.</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
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 11)

O.A. No. 312 of 2022

Smt Lal Maya Rana, W/o Late
Ex Rfn Durga Bahadur Rana

By Legal Practitioner for the Applicant:

Applicant
Shri Vijay Kumar Pandey, Advocate
Shri TK Shukla, Advocate

Versus

Union of India & Others

By Legal Practitioner for Respondents:

Respondents
Shri Pushpendra Mishra, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>08.02.2023</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 Vijay Kumar Pandey and Shri TK Shukla, Ld. Counsel for the applicant and Shri Pushpendra Mishra, Ld. Counsel for the respondents.</p> <p style="text-align: center;">The matter was heard at length but it requires further hearing.</p> <p style="text-align: center;">List on 21.03.2023.</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
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No. 12)

O.A. No. 444 of 2022

Smt Rajani Devi W/o Late
Ex Rfn Dinesh Kumar Solanki Applicant
By Legal Practitioner for the Applicant: Shri KK Misra, Advocate

Versus

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

Notes of the Registry	Orders of the Tribunal
	<p><u>08.02.2023</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 KK Misra, learned counsel for the applicant and Shri JN Mishra, Ld. Counsel for the respondents are present.</p> <p>Rejoinder affidavit filed by learned counsel for the applicant is taken on record.</p> <p>List on 24.03.2023 for hearing.</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. 1088 of 2022

Ex Sgt Avinash Chandra Shukla 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 Gyan Singh, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>08.02.2023</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. Heard Shri VP Pandey and Shri Rakesh Kumar Singh, Ld. Counsel for the applicant and Shri Gyan Singh, Ld. Counsel for the respondents.</p> <p>2. 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 18.06.1998 and retired on 30.06.2018 is entitled for grant of last increment due on 01.07.2018 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, <i>Ex HFL Sarvesh Kumar vs. Union of India & Ors</i>, decided on 12.08.2021.</p> <p>3. 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. 30.06.2018 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2018. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>4. The law on notional increment has already been settled by the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (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</p>

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.”

5. 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 30.06.2018, but the increment fell due on the next day of his retirement 01.07.2018, on which date he was not in service, he has to be treated as having completed one full year of service.

6. 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 01.07.2017 to 30.06.2018, as he has completed one full year of service, though his increment fell on 01.07.2018, for the purpose of pensionary benefits and not for any other purpose, after verifying documents. 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

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

(Vice Admiral Atul Kumar Jain)
Member (A)

(Justice Anil Kumar)
Member (J)

