

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

O.A. No. 1085 of 2022 with M.A. No. 1293 of 2022

Ex Laskar Sunil Kumar
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>22.12.2022</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, 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 Vijay Kumar Pandey, Shri Girish Tiwari, Shri Dheerendra Kumar Agnihotri, Shri Sandeep Tripathi and Shri Vishnu Kant Awasthi, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present.</p> <p>There is delay of 17 years, 09 months and 18 days in filing O.A. regarding which application for condonation of delay has been filed supported with an affidavit.</p> <p>Learned counsel for the respondents seeks and is allowed three weeks time to file objection against delay condonation application.</p> <p>List on 02.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</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. 1088 of 2022 with M.A. No. 1296 of 2022

Ex Sgt Avinash Chandra Shukla
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>22.12.2022</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>Memo of appearance filed by Dr. Gyan Singh, 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><u>M.A. No. 1296 of 2022</u></p> <p>This is an application for condonation of delay in filing Original Application. As per office report, there is delay of 02 years, 11 months and 29 days in filing Original Application regarding which an affidavit has been filed in support of delay condonation application.</p> <p>Heard Shri VP Pandey and Shri Rakesh Kumar Singh, learned counsel for the applicant and Dr. Gyan Singh, learned counsel for the respondents on delay condonation application.</p> <p>Learned counsel for the applicant submits that delay is not deliberate. He further submits that being a pensionary matter, delay may be condoned.</p> <p>On the other hand, learned counsel for the respondents opposed the prayer and submitted that delay has not been properly explained.</p> <p>Cause shown is sufficient and supported by affidavit.</p> <p>Accordingly, delay is condoned. M.A. No. 1296 of 2022 is disposed off.</p> <p><u>O.A. No. 1088 of 2022</u></p> <p>Matter being related to grant of notional increment needs adjudication.</p> <p>Admit.</p> <p>Learned counsel for the respondents prays for and is granted four weeks time to file counter affidavit.</p> <p>Rejoinder affidavit, if any, may be filed by learned counsel for the applicant within two weeks.</p> <p>List on 08.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

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

O.A. No. 833 of 2022

HO Om Prakash Yadav (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>22.12.2022</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Kumar, Member (A)</u></p> <ol style="list-style-type: none">1. Counter affidavit filed by the respondents is taken on record.2. Heard Shri Ravi Kumar Yadav, Ld. Counsel for the applicant and Shri Adesh Kumar Gupta, Ld. Counsel for the respondents.3. Learned Counsel for the applicant submits that after the Sixth Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being retired on 30.06.2016 is entitled for grant of last increment due on 01.07.2016 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).4. 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. 30.06.2016 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2016. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personal</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.5. 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 Judgment passed by the Hon'ble Madras High Court is excerpted below:- <p style="text-align: center;"><i>"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</i></p>

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.”*

6. 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 30.06.2016, but the increment fell due on the next day of his retirement 01.07.2016, on which date he was not in service, he has to be treated as having completed one full year of service.

7. 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 01.07.2015 to 30.06.2016, as he has completed one full year of service, though his increment fell on 01.07.2016, 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

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

(Maj Gen Sanjay Singh)
Member (A)

(Justice Anil Kumar)
Member (J)

RSP

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

O.A. No. 845 of 2022

Abha Singh W/O Nk Satyam 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>22.12.2022</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>Memo of appearance filed by Shri Satyam, 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 R Chandra, learned counsel for the applicant and Mrs Anju Singh, learned counsel for the respondent No 1 to 4 and Shri Satyam, learned counsel for the respondent No 5 are present.</p> <p>Similar matter is pending before the Larger Bench of Hon'ble AFT, Principal Bench, New Delhi.</p> <p>Learned counsel for the respondents prays for and is granted two weeks time to file counter affidavit.</p> <p>List on 24.02.2023</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

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

O.A. No. 883 of 2022

Ex L/Nk Ritesh Kumar
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>22.12.2022</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri VK Chahar, learned counsel for the applicant and Shri Rajeev Narayan Pandey, learned counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted further four weeks time to file counter affidavit.</p> <p>List on 10.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</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. 889 of 2022

Subhamdeep Pandey S/O Late Ex Sub
Shashi Bhushan Pandey & Others
By Legal Practitioner for the Applicants

Applicants

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>22.12.2022</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri R Chandra, Advocate holding brief for Shri Yashpal Singh, learned counsel for the applicants and Shri Yogesh Kesarwani, learned counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted three weeks further time to file counter affidavit.</p> <p>Issue notice to respondent No 9 returnable within four weeks.</p> <p>Steps to be taken within one week.</p> <p>List on 14.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.7)
O.A. No. 894 of 2022

Ex Sgt Satish Chandra
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>22.12.2022</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri Sudhir Kumar Singh and Shri Abhishek Singh, learned counsel for the applicant and Shri Ashish Kumar Singh, learned counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted three weeks further time to file counter affidavit.</p> <p>List on 13.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.8)

O.A. No. 898 of 2022

Col Ramesh Chandra Dixit
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>22.12.2022</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing applicant in person and Dr. Shailendra Sharma Atal, learned counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted four weeks time to file counter affidavit.</p> <p>List on 13.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.9)

O.A. No. 378 of 2019

Smt Dewanti Devi & Another
By Legal Practitioner for the Applicants

Applicants

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>22.12.2022</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri Prabhat Kumar Tripathi, learned counsel for the applicants and Shri Jai Narayan Mishra, learned counsel for the respondents are present.</p> <p>Order.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

