

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

M.A. No. 880 of 2021 with M.A. No. 881 of 2021 Inre : T.A. No. 08 of 2012

Prakash 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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>HeardShri Kishore Rai, Ld. Counsel for the applicant and ShriNeerajUpreti, Ld. Counsel for the respondents.</p> <p>The Ld. Counsel for the respondents submits that objection against recall application could not be filed due to paperboy being not available with the Counsel of the respondents. He further submits that on the last date he had requested the Ld. Counsel for the applicant to provide a copy of paper-book, but the same has not been provided as yet.</p> <p>The Ld. Counsel for the applicant submits that he will provide the copy of paper-book by today itself.</p> <p>Let objection be filed within three weeks.</p> <p>List on 30.05.2022.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 428 of 2021

Smt. Sushila Devi W/o Late Ex. Nk. Kunwar 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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>Counter Affidavit filed by the respondents is taken on record. HeardShriKishore Rai, Ld. Counsel for the applicant and ShriNeerajUpreti, Ld. Counsel for the respondents. Original Application is allowed. For order, see our Judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>rathore/-</p>

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

O.A. No. 430 of 2021

Smt. LeelaGoswami, W/o Ex. Nb. Sub.Rajendra 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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>Counter Affidavit filed by the respondents is taken on record. HeardShriKishore Rai, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondents. Original Application is partly allowed. For order, see our Judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 431 of 2021

Rect. Ajay Kumar Singh Bohra
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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>Counter Affidavit filed by the respondents is taken on record. HeardShriKishore Rai, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondents. Original Application is dismissed. For order, see our Judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 432 of 2021

Hav.Rajan 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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>Counter Affidavit filed by the respondents is taken on record. HeardShriKishore Rai, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondents. Original Application is allowed. For order, see our Judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 433 of 2021

Rect. SusheelTamta
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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p style="text-align: center;">ShriNitin Singh, Advocate brief of ShriC.S. Rawat, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Original Application is allowed.</p> <p style="text-align: center;">For order, see our Judgment passed on separate sheets.</p> <p style="text-align: center;">Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 434 of 2021

Ex. Rect. Vinod 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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p style="text-align: center;">HeardShriNitin Singh, Advocate brief of ShriC.S. Rawat, Ld. Counsel for the applicant and ShriNeerajUpreti, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Original Application is dismissed.</p> <p style="text-align: center;">For order, see our Judgment passed on separate sheets.</p> <p style="text-align: center;">Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 436 of 2021

Smt. Kamla Devi W/o Late Nk. Balwant 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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>Counter Affidavit filed by the respondents is taken on record. HeardShri D.K. Joshi and Shri B.S. Negi, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondents. Original Application is allowed. For order, see our Judgment passed on separate sheets. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>

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

O.A. No. 437 of 2021

Ex. Hony. Sub. Maj. Dinesh Chandra Khantwal
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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing ShriKishore Rai, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondentsare present.</p> <p style="text-align: center;">As prayed by the Ld. Counsel for the applicant, list on 23.02.2022.</p> <p style="text-align: center;">(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 439 of 2021

Ex. Spr. Suresh Chandra Dumka
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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p style="text-align: center;">On the case being taken up for hearing ShriDinesh Gahatori, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondentsare present.</p> <p style="text-align: center;">As prayed by the Ld. Counsel for the applicant, list on 24.02.2022.</p> <p style="text-align: center;">(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 701 of 2021

Ex. Nk. LaxmiDatt

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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>On the case being taken up for hearing ShriVikram Singh Dhapola, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondentsare present.</p> <p>On the request of Ld. Counsel for the respondents four weeks further time is granted to file Counter Affidavit.</p> <p>List on 30.05.2022.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 708 of 2021 with M.A. No. 861 of 2021

Ex. Hav. Narayan 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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>HeardShriKishore Rai, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondents.</p> <p>This Original Application has been filed for the grant of service pension to the applicant after setting aside the punishment dated 21.02.2008 awarded to the applicant in Summary Court Martial.</p> <p>There is a delay of 11 years, 06 months and 23 days in filing Original Application.</p> <p>Submission of Ld. Counsel for the applicant is that delay in filing Original Application is not deliberate. His further submission is that applicant being not aware about the remedy being a resident of remote area of District Pithoragarh. The cause of action pertains to payment of service pension being a recurring in nature. Thus, his submission is that delay is not deliberate, but for the reasons stated above.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer and has submitted that long delay of more than 11 years has not been properly and satisfactorily explained.</p> <p>Having heard the submissions of Ld. Counsel of both sides and considering the facts and circumstances of the case, we find that explanation offered by the applicant for delay in filing Original Application is not sufficient. It is settled in law that if time limit is given for filing of any application and the same is not filed within that time limit, delay should be explained on day to day basis which applicant has utterly failed in the present case.</p> <p>In the result, we find that delay is not condonable.</p> <p>Accordingly, delay condonation application is rejected.</p> <p>Original Application being time barred is also rejected.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) AKD/SB/-</p>

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

O.A. No. 709 of 2021

Col. P.R. Kathuria (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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>On the case being taken up for hearing ShriKishore Rai, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondentsare present.</p> <p>As prayed by the Ld. Counsel for the respondents, four weeks further time is granted to file Counter Affidavit.</p> <p>List on 30.05.2022.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 710 of 2021

Ex. Hav. Lachham 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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>On the case being taken up for hearing ShriKishore Rai, Ld. Counsel for the applicant and ShriRajesh Sharma, Ld. Counsel for the respondentsare present.</p> <p>As prayed by the Ld. Counsel for the respondents, four weeks further time is granted to file Counter Affidavit.</p> <p>List on 30.05.2022.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 711 of 2021 with M.A. No. 864 of 2021

Ex. Hav. Balbir Chand
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>22.02.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents.</p> <p>The applicant has filed this Original Application for the grant of service pension after setting aside the order of dismissal dated 11.11.2002.</p> <p>There being a delay of 16 years, 10 months and 03 days in filing of Original Application an application for condonation of delay has been filed. An affidavit has also been filed in support of application stating that applicant being a resident of remote area and being not aware about the provisions regarding delay, he could not contact his Counsel earlier for the redressal of his grievance.</p> <p>No written objection has been filed despite the time being sought for the same.</p> <p>Considering the facts and circumstances of the case, we find that cause shown is sufficient.</p> <p>Accordingly, delay is condoned. Delay condonation application stands disposed off.</p> <p><u>O.A. No. 711 of 2021</u></p> <p>Heard.</p> <p>The case needs adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks next thereafter.</p> <p>List on 30.05.2022.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) AKD/SB/-</p>

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

O.A. No. 712 of 2021

Ex. Rfn. Chandra Mohan 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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>On the case being taken up for hearing ShriKishore Rai, Ld. Counsel for the applicant and ShriNeerajUpreti, Ld. Counsel for the respondentsare present.</p> <p>As prayed by the Ld. Counsel for the respondents, four weeks further time is granted to file Counter Affidavit.</p> <p>List on 30.05.2022.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 713 of 2021

Visha Devi M/o Late Rfn. Nandan 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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>On the case being taken up for hearing ShriKishore Rai, Ld. Counsel for the applicant and ShriNeerajUpreti, Ld. Counsel for the respondentsare present.</p> <p>As prayed by the Ld. Counsel for the respondents, four weeks further time is granted to file Counter Affidavit.</p> <p>List on 30.05.2022.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

O.A. No. 714 of 2021 with M.A. No. 867 of 2021

Ex. Gnr. Diwan 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>22.02.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents.</p> <p>This Original Application has been filed for issuing direction to respondents to grant service pension to the applicant after setting aside the order of dismissal dated 23.10.1998. The applicant has been dismissed from service being deserter.</p> <p>There being a delay of 20 years, 10 months and 21 days in filing of Original Application an application for condonation of delay has been filed which is supported with affidavit.</p> <p>It is stated that bar of limitation is not applicable in pensionary matter. It is further stated that applicant is a resident of remote area and being not aware about the rights, he could not contact his Counsel earlier for the redressal of his grievance.</p> <p>No written objection has been filed despite the time being sought for the same.</p> <p>Considering that law of limitation is not applicable in pensionary matter as cause of action in such matter accrues every month and further delay in filing Original Application is not intentional, we condone the delay. Delay condonation application stands disposed off.</p> <p><u>O.A. No. 714 of 2021</u></p> <p>Heard.</p> <p>The case needs adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file Counter Affidavit. Rejoinder Affidavit, if any, may be filed within two weeks next thereafter.</p> <p>List on 30.05.2022.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J) AKD/SB/-</p>

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

O.A. No. 715 of 2021

Ex. Nk. Arjun Chand
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>22.02.2022</u> <u>Hon'bleMr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'bleVice Admiral AbhayRaghunathKarve, Member (A)</u></p> <p>On the case being taken up for hearing ShriKishore Rai, Ld. Counsel for the applicant and ShriNeerajUpreti, Ld. Counsel for the respondentsare present.</p> <p>As prayed by the Ld. Counsel for the respondents, four weeks further time is granted to file Counter Affidavit.</p> <p>List on 30.05.2022.</p> <p>(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>

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

R.A. No. 89 of 2021 Inre : O.A. No. 531 of 2020

Ex. Rect. Mukesh Singh Mehta
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>22.02.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Heard Shri G.D. Joshi, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents.</p> <p style="text-align: center;">The Review Applicant has filed this application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 by which applicant has prayed for review and setting aside the judgement and order dated 09.03.2021 of this Tribunal passed in Original Application No.531 of 2020 by which Original Application has been dismissed on delay as well as on merit being a case of recruit who was suffering from Schizophrenia.</p> <p style="text-align: center;">It is a settled proposition of law that the scope of the review is limited and until it is shown that there is error apparent on the face of record in the judgment and order sought to be reviewed, the same cannot be reviewed.</p> <p style="text-align: center;">For ready reference, Order 47, Rule 1 sub-rule (1) of the Code of Civil Procedure, 1908 is reproduced below :-</p> <p style="text-align: center;"><i>“1. Application for review of judgment.- (1) any person considering himself aggrieved-</i></p> <p style="text-align: center;"><i>(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,</i></p> <p style="text-align: center;"><i>(b) by a decree or order from which no appeal is allowed, or</i></p> <p style="text-align: center;"><i>(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.”</i></p> <p style="text-align: center;">In view of the principles of law laid down by the Hon'ble Supreme Court in various decisions, it is settled that the scope of review jurisdiction is very limited and re-hearing is not permissible. The Hon'ble Supreme Court in Para 9 of its judgment in the case of <i>Parsion Devi and others vs. Sumitri Devi and others</i>, reported in (1997) 8 Supreme Court Cases 715, has observed as under :-</p>

"9. Under Order 47, Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self- evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47, Rule 1 CPC. In exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise."

We have gone through the judgment and order sought to be reviewed and no illegality or irregularity or error apparent on the face of record being found therein, we are of the view that there is no force in the grounds taken in the review application so that order may be reviewed.

In the result, Review Application is **rejected**.

(Vice Admiral AbhayRaghunathKarve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

AKD/SB/-

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

R.A. No. 92 of 2021 with M.A. No. 814 of 2021 Inre : O.A. No. 567 of 2020

Ex. LAC Rajendra 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>22.02.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p><u>M.A. No. 814 of 2021</u></p> <p>Heard Mohammad Hasnain Raza, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents.</p> <p>This application has been filed to recall the order dated 15.11.2021 in Original Application No. 567 of 2020 b which Original Application has been dismissed on merit.</p> <p>Ld. Counsel for the applicant states that applicant has also filed Review Application against the order in question and wants to press the same, therefore, recall application may be dismissed as withdrawn.</p> <p>Accordingly, recall application is dismissed as withdrawn.</p> <p><u>R.A. No. 92 of 2021</u></p> <p>Ld. Counsel for the respondents seeks and is allowed three weeks time to file objection.</p> <p>List on 30.05.2022.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/SB/-</p>