

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

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(CIRCUIT BENCH AT NAINITAL)**

1. Ex. A. No. 68 of 2022 Inre : O.A. No. 561 of 2020

Ex. Sep. Pooran Singh Dasila
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>07.12.2022</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>On the case being taken up for hearing Shri Tarun P.S. Takuli, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents are present.</p> <p>The order dated 06.04.2021 has not yet been complied with.</p> <p>Ld. Counsel for the respondents submits that since Leave to Appeal has been dismissed on the last date only, four weeks further time be granted to make compliance of the order.</p> <p>Let compliance be made and affidavit of compliance be filed within four weeks positively failing which respondents shall be liable to pay Rs.5,000/- as cost to the applicant.</p> <p>List on 01.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(CIRCUIT BENCH AT NAINITAL)**

2. Ex. A. No. 69 of 2022 Inre : O.A. No. 566 of 2020

Ex. Sep. Harish 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>07.12.2022</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>On the case being taken up for hearing Shri Tarun P.S. Takuli, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents are present.</p> <p>The order dated 06.04.2021 has not yet been complied with.</p> <p>Ld. Counsel for the respondents submits that since Leave to Appeal has been dismissed on the last date only, four weeks further time be granted to make compliance of the order.</p> <p>Let compliance be made and affidavit of compliance be filed within four weeks positively failing which respondents shall be liable to pay Rs.5,000/- as cost to the applicant.</p> <p>List on 01.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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5. Ex. A. No. 73 of 2022 Inre : O.A. No. 545 of 2020

Ex. Sep. Pratap Singh Karmiyal
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>07.12.2022</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>On the case being taken up for hearing Shri Tarun P.S. Takuli, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents are present.</p> <p>The order dated 06.04.2021 has not yet been complied with.</p> <p>Ld. Counsel for the respondents submits that since Leave to Appeal has been dismissed on the last date only, four weeks further time be granted to make compliance of the order.</p> <p>Let compliance be made and affidavit of compliance be filed within four weeks positively failing which respondents shall be liable to pay Rs.5,000/- as cost to the applicant.</p> <p>List on 01.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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7. Ex. A. No. 75 of 2022 Inre : O.A. No. 556 of 2020

Ex. Sep. Khim 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>07.12.2022</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>On the case being taken up for hearing Shri Tarun P.S. Takuli, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents are present.</p> <p>The order dated 06.04.2021 has not yet been complied with.</p> <p>Ld. Counsel for the respondents submits that since Leave to Appeal has been dismissed on the last date only, four weeks further time be granted to make compliance of the order.</p> <p>Let compliance be made and affidavit of compliance be filed within four weeks positively failing which respondents shall be liable to pay Rs.5,000/- as cost to the applicant.</p> <p>List on 01.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(CIRCUIT BENCH AT NAINITAL)**

9. O.A. No. 125 of 2022

Rfn. Kuldeep 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>07.12.2022</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>On the case being taken up for hearing Shri M.S. Bhandari, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents are present.</p> <p>On the request of Ld. Counsel for the respondents, three weeks further time is granted to file Supplementary Counter Affidavit annexing therewith copy of dismissal order, if any.</p> <p>List on 01.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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(CIRCUIT BENCH AT NAINITAL)

10. O.A. No. 136 of 2022

Ex. Sep. Dhan 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>07.12.2022</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 Rajveer Singh, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents.</p> <p>Original Application is allowed.</p> <p>For orders, see our order passed on separate sheets.</p> <p>Misc. Application(s), pending if any, shall be treated to have been disposed of.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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11. O.A. No. 151 of 2022

Ex. Nk. 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>07.12.2022</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>Counter Affidavit filed by the respondents is taken on record. Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents. Original Application is allowed. For orders, see our order passed on separate sheets. Misc. Application(s), pending if any, shall be treated to have been disposed of.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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(CIRCUIT BENCH AT NAINITAL)****12. O.A. No. 157 of 2022****Ex. Nk. Kushal Singh**

Applicant

By Legal Practitioner for the Applicant

Versus**Union of India & Others**

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>07.12.2022</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>Counter Affidavit filed by the respondents is taken on record. Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents. Original Application is dismissed. For orders, see our order passed on separate sheets. Misc. Application(s), pending if any, shall be treated to have been disposed of.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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(CIRCUIT BENCH AT NAINITAL)**

13. O.A. No. 198 of 2022

Smt. Kausha Devi W/o Late Spr. Prem 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>07.12.2022</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>On the case being taken up for hearing Shri Kishore Rai, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents are present.</p> <p>As prayed by the Ld. Counsel for the respondents, three weeks further time is granted to file Counter Affidavit.</p> <p>List on 01.03.2023.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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(CIRCUIT BENCH AT NAINITAL)

14. O.A. No. 199 of 2022

Ex. Nk. Khushal 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>07.12.2022</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>On the case being taken up for hearing Shri Kishore Rai, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents are present.</p> <p>Ld. Counsel for the applicant submits that applicant received Gun Shot Wound in Operation 'RAKSHAK' (Jammu & Kashmir) on the left thigh of his body, not on the right thigh as stated by the respondents. He further submits that applicant has evidence to show that he was disabled when discharged from service, not in Shape-I for which he wants to file Rejoinder Affidavit, time be granted for the same.</p> <p>Rejoinder Affidavit may be filed within three weeks.</p> <p>List on 01.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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(CIRCUIT BENCH AT NAINITAL)

16. O.A. No. 481 of 2022

Ex. Nb. Sub. Manoj Prasad Kuniyal
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>07.12.2022</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>Counter Affidavit filed by the respondents is taken on record. Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents. Original Application is dismissed. For orders, see our order passed on separate sheets. Misc. Application(s), pending if any, shall be treated to have been disposed of.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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(CIRCUIT BENCH AT NAINITAL)**

20. O.A. No. 729 of 2022

Ex. L/Nk. Ritesh Pant
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>07.12.2022</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>Counter Affidavit filed by the respondents is taken on record.</p> <p>Heard Shri N.K. Papnoi, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents.</p> <p>This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for quashing the Final Release medical Board dated 23.03.2021 on the basis of which applicant was released from Army with effect from 30.09.2021 after decreasing the percentage of disability from 70% to 40% and for issuing a direction to the respondents to conduct Review Medical Board in the nearest Military Hospital for assessing the actual disability of the applicant for granting the proper disability pension to the applicant.</p> <p>Briefly stated, applicant was enrolled in the Indian Army on 22.09.2004. On 10.11.2007 while patrolling along the Line of Control Fence in "Operation RAKSHAK-II (Jammu & Kashmir)" the applicant slipped and fell from a height of approx 70 meter and got injured for which applicant was treated in various Hospitals. The applicant was placed in low medical category. His injury was declared Battle Casualty. The applicant was discharged on 30.09.2021 in Low Medical Category on fulfilling the conditions of his enrolment under Rule 13 (3) Item III (i) of the Army Rules, 1954. At the time of discharge from</p>

service, the Release Medical Board (RMB) held at 164 Military Hospital on 20.05.2021 assessed his disability '**FRACTURE DV4 WITH PARAPARESIS (OPTD) (S22.049B G82.20)**' @40% for life and opined the disability to be attributable to service. Accordingly, applicant was granted War Injury Pension @40% rounded off to 50% for life vide PPO dated 12.08.2022.

Ld. Counsel for the applicant submitted that the Categorization Board has assessed applicant's disability @70% which has been wrongly decreased by the Release Medical Board to 40%. As such applicant be granted War Injury Pension @70% to be rounded off to 75% for life.

Ld. Counsel for the respondents submits that at the time of discharge applicant's disability has been assessed @40% for life as attributable to service. Since the applicant's disability has been declared as Battle Casualty, he was granted War Injury Pension @40% for life rounded to 50% for life. He further submitted that once disability assessed by the Release Medical Board it is treated as final for life except in the case of temporary disability. The applicant's disability was assessed as permanent by the Release Medical Board, therefore, there is no provision for re-survey medical board. He pleaded for dismissal of Original Application.

Upon hearing submissions of Ld. Counsel of both sides and having gone through the documents we find that although Re-Categorization Medical Board has assessed the applicant's disability @70% but at the time of discharge from service Release Medical Board assessed applicant's disability @40% for life. Accordingly, applicant has been granted War Injury Pension @40% rounded off to 50% for life. The Release Medical Board is a duly constituted body and findings of the board should be given due credence. The applicant has failed to prove that Release Medical Board has wrongly assessed his disability @40% for life. In view of the above, Original Application lacks merit and is liable to be dismissed.

Accordingly, Original Application is dismissed.

Misc. Application(s), pending if any, shall be treated to have been disposed of.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/-