

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

2. Ex. A. No. 198 of 2022 Inre : O.A. No. 181 of 2021

Ex. L. Nk. Subodh Kandwal
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>08.12.2022</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 style="text-align: center;">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 style="text-align: center;">On the request of Ld. Counsel for the respondents, four weeks further time is granted to file affidavit of compliance.</p> <p style="text-align: center;">List on 02.03.2023.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

3. Diary No. 1 of 2022 Inre : O.A. No. (Nil) of 2022

Ex. Nk. Khyali Charan Joshi
By Legal Practitioner for the Applicant

Applicant

Versus

Chief of Army Staff & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>08.12.2022</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 no one is present on behalf of the applicant.</p> <p>Shri Neeraj Upreti, Ld. Counsel for the respondents is present.</p> <p>Counter Affidavit filed by the respondents is taken on record.</p> <p>Applicant has not removed the defects yet.</p> <p>Defects must be removed within two weeks failing which application will be dismissed for non-prosecution.</p> <p>List on 02.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

4. Ex. A. No. 72 of 2022 Inre : O.A. No. 289 of 2018

Ex. Hav. Shyam 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>08.12.2022</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 Mohit Maulekhi, Ld. Counsel for the applicant and Shri Rajesh Shamra, Ld. Counsel for the respondents are present.</p> <p>Ld. Counsel for the applicant submits that order has been partly complied with, only interest part is to be complied.</p> <p>Ld. Counsel for the respondents seeks and is allowed four weeks time to file affidavit of compliance regarding interest.</p> <p>List on 02.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

5. Ex. A. No. 197 of 2022 Inre : O.A. No. 418 of 2019

Smt. Indu Manodi 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>08.12.2022</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>On the request of Ld. Counsel for the respondents, three weeks further time is granted to file affidavit of compliance. It is directed that if the order is not complied with within the given time respondents will be liable to pay Rs.5,000/- as cost to the applicant.</p> <p>List on 02.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

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

6. Ex. A. No. 199 of 2022 Inre : O.A. No. 164 of 2021

Ex. Nk. Madho 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>08.12.2022</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>Affidavit of compliance 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. Shri Kishore Rai, Ld. Counsel appearing for the applicant states that Execution Application may be dismissed being infructuous as order has been complied with. In view of the above, Execution Application is dismissed being infructuous.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

7. Ex. A. No. 200 of 2022 Inre : O.A. No. 143 of 2020

Ex. Hav. Anand Snigh Ram 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>08.12.2022</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>It is submitted by the Ld. Counsel for the respondents that respondents have filed a Leave to Appeal application against the order in question, therefore, the order could not be complied with.</p> <p>The reasons assigned for non-compliance of the order is not sufficient. Respondents are, therefore, directed to make compliance of the order within four weeks failing which they shall be liable to pay Rs.10,000/- as cost to the applicant.</p> <p>List on 02.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

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

8. Ex. A. No. 201 of 2022 Inre : O.A. No. 496 of 2020

Ex. Nk. Kashi Chand

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>08.12.2022</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 Rajesh Sharma, 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 affidavit of compliance as a last chance. It is directed that in the event of order being not complied with respondents shall be liable to pay Rs.5,000/- as cost to the applicant.</p> <p>List on 02.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

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

9. Ex. A. No. 203 of 2022 Inre : O.A. No. 159 of 2021

Smt. Devki Devi

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>08.12.2022</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>On the request of Ld. Counsel for the respondents, three weeks further time is granted to file affidavit of compliance as a last chance. It is directed that in the event of order being not complied with respondents shall be liable to pay Rs.5,000/- as cost to the applicant.</p> <p>List on 02.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

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

10. Ex. A. No. 204 of 2022 Inre : O.A. No. 161 of 2021

Ex. Nk. Prem Bahadur

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>08.12.2022</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 Rajesh Sharma, Ld. Counsel for the respondents are present.</p> <p>It is submitted by the Ld. Counsel for the respondents that in compliance of the order the applicant was subjected to Review Survey Medical Board and in view of report of it the PPO has been issued.</p> <p>Let PPO be brought on record by way of affidavit within three weeks. List on 02.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

**Form No. 4
{See rule 11(1)}
ORDER SHEET****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(CIRCUIT BENCH AT NAINITAL)****11. 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>08.12.2022</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 Tanveer Alam, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents are present.</p> <p>Case needs physical hearing.</p> <p>List on 02.03.2023 for physical hearing.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

12. O.A. No. 256 of 2021

Jai Bahadur Chand 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>08.12.2022</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 Rajesh Sharma, Ld. Counsel for the respondents are present.</p> <p>As prayed, two weeks further time is granted for taking steps.</p> <p>On steps being taken, notice will be issued to respondent No. 4 returnable within four weeks.</p> <p>List on 02.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

13. O.A. No. 475 of 2022

Ex. Nk. Inder Ram

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>08.12.2022</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 style="text-align: center;">Counter Affidavit filed by the respondents is taken on record. Heard Shri C.S. Rawat and Shri Vivek Kumar, Ld. Counsel for the applicant and Shri Rajesh Sharma, 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 style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A) (Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

Suppl. 1. O.A. No. 1029 of 022 with M.A. No. 1240 of 2020

Ex. Cfn. Raunak Ali 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>08.12.2022</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 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 the grant of disability pension.</p> <p>There is a delay of 13 Years, 03 months and 04 days in filing of Original Application.</p> <p>Being a pensionary matter, delay is condoned. Delay condonation application stands disposed off.</p> <p><u>O.A. No. 1029 of 2022</u></p> <p>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 thereafter.</p> <p>List on 01.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

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

Suppl. 2. O.A. No. 1030 of 2022 with M.A. No. 1241 of 2022

Ex. Hav. Surendra 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>08.12.2022</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 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 the grant of 3rd MACP.</p> <p>It is submitted by the Ld. Counsel for the applicant that application has been discharged from service after rendering more than 24 years of service and in view of recommendations of 6th CPC applicant is entitled to MACP third.</p> <p>There being a delay of 11 Years, 11 months and 19 days in filing of Original Application an application for condonation of delay has been filed and it is submitted that delay in filing the Original Application is not deliberate.</p> <p>Cause shown is sufficient. Accordingly, delay is condoned. Delay condonation application stands disposed off.</p> <p><u>O.A. No. 1030 of 2022</u></p> <p>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 thereafter.</p> <p>List on 01.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

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

Suppl.3. O.A. No. 1031 of 2022 with M.A. No. 1242 of 2022

Ex. Hav. Mangal Singh Samant
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>08.12.2022</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>Herd 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 the grant of disability pension to the applicant.</p> <p>There is a delay of 03 months and 03 days in filing of Original Application.</p> <p>Being a pensionary matter, delay is condoned. Delay condonation application stands disposed off.</p> <p><u>O.A. No. 1031 of 2022</u></p> <p>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 thereafter.</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>

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

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

Suppl. 4. O.A. No. 1032 of 2022 with M.A. No. 1243 of 2022

Ex. Hav. Surendra 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>08.12.2022</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 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 the grant of notional increment to the applicant.</p> <p>There is a delay of 11 years, 11 months and 19 days in filing of Original Application.</p> <p>Being a pensionary matter, delay is condoned. Delay condonation application stands disposed off.</p> <p><u>O.A. No. 1032 of 2022</u></p> <p>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 25.08.1984 and retired on 30.06.2008 is entitled for grant of last increment due on 01.07.2008 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>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</p>

increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2008 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2008. Therefore, benefit of the Hon'ble Madras High Court order being *in personam* cannot be extended to the applicant and hence, Original Application is liable to be dismissed.

The law on notional increment has already been settled by the Hon'ble Madras High Court in the case of ***P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others*** (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 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.”

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 30.06.2008, but the increment fell due on the next day of his retirement 01.07.2008, on which date he was not in service, he has to be treated as having completed one full year of service.

In view of the above, the Original Application is allowed subject to verification of records. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2007 to 30.06.2008, as he has completed one full year of service, though his increment fell on 01.07.2008, 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

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/-

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

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

Suppl. 5. O.A. No. 1033 of 2022

Ex. Hav. Uttam 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>08.12.2022</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 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 the grant of disability pension to the applicant.</p> <p>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 thereafter.</p> <p>List on 01.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>AKD/-</p>

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

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

Suppl. 6. O.A. No. 1034 of 2022

Sub. Maj. Navin Chandra Mathpal (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>08.12.2022</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 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 reimbursement of Rs.2,83,921/-.</p> <p>It is submitted by the Ld. Counsel for the applicant that wife of the applicant was seriously ill during second wave of COVID-19 and was admitted in hospital in emergency and a sum of Rs.2,83,921/- has been spent on her treatment regarding which applicant has submitted Bill for reimbursement, but the same has not been reimbursed.</p> <p>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 thereafter.</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>

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

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

Suppl. 7. O.A. No. 1035 of 2022 with M.A. No. 1244 of 2022

Smt. Basanti Devi W/o Late Hav. Diwan 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>08.12.2022</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 style="text-align: center;">Heard Shri Vikram Singh Dhapola, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents.</p> <p style="text-align: center;">This Original Application has been filed for the grant of second service pension.</p> <p style="text-align: center;">There is a delay of 15 years, 05 months and 20 days in filing of Original Application.</p> <p style="text-align: center;">Being a pensionary matter, delay is condoned. Delay condonation application stands disposed off.</p> <p><u>O.A. No. 1035 of 2022</u></p> <p style="text-align: center;">Heard Shri Vikram Singh Dhapola, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Subject to verification of documents Original Application is allowed.</p> <p style="text-align: center;">For orders, see our order passed on separate sheets.</p> <p style="text-align: center;">Misc. Application(s), pending if any, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

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

Suppl. 8. O.A. No. 1036 of 2022 with M.A. No. 1245 of 2022

Smt. Ramuli Devi @ Motima Devi W/o Late Sep. Madho 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>08.12.2022</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 N.K. Papnoi, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents are present.</p> <p>This application has been filed for condoning the delay of 18235 days in filing the application.</p> <p>Learned counsel for the applicant submits that applicant's husband Ex Sep Late Madho Singh was enrolled in the Indian Army on 24.01.1963 and was discharged from service after rendering 7 years 5 months and 06 days service. He was not in receipt of service pension. He died on 24.03.2013 after which she is living in penury as she has no means of livelihood nor she is able to earn due to her old age. Government of India, Ministry of Defence, Department of Ex-Serviceman Welfare D(Pension/Policy) vide its letter F. No. 14(02)/2019/D (Pen/Pol) dated 5 October 2020 has revised the Regulation relating to rate of Family Pension (Normal rate & Enhanced rate) of Pension Regulation for Army, 2008 (Part-I) wherein the condition of minimum requirement of seven years of continuous service for grant of enhanced rate of ordinary family pension has been deleted. After the issuance of this letter applicant had applied for the grant of family pension which was wrongly rejected by the respondents vide letter dated 02 November 2020 on the ground that since her husband was discharged from service on extreme compassionate ground, she was not entitled for family pension.</p> <p>He submits that limitation is not applicable in pensionary matters. Further, applicant's claim for the grant of family pension has been denied on 02 November</p>

2020 hence limitation will reckon from this date and not from the date of discharge.

Learned counsel for the respondents, on the other hand, submits that applicant's husband was discharged from service on 30 June 1970 on extreme compassionate ground and was not paid service pension being discharged from service before completing minimum qualifying pensionable service i.e.15 years as per para 132 of Pension Regulation for the Army, 1961 (Part-1). He died on 24.03.2013 and during his life time never raised any claim for the grant of service pension. Since he was not in receipt of service pension, applicant is not entitled to family pension.

As regards letter dated 02 November 2020, he submits that this letter has been issued to lift the bar of seven years continuous service for the grant of ordinary/enhanced family pension which has nothing to do with the applicant nor applicant can claim limitation from the date of this letter. The limitation in the case of applicant will reckon from the date of discharge of the applicant's husband from service i. e. 30 June 1970.

There is an inordinate delay of 18235 days in filing the application which has not been explained, hence delay is not condonable.

Upon hearing submissions of learned counsel of both sides we find that applicant's husband being not a pensioner she is not entitled to family pension. It is relevant to mention that applicant's husband was discharged from service on extreme compassionate ground after rendering 7 years 5 months and 06 days service hence he was not entitled to service pension because as per Para 132 of Pension Regulation for the Army, minimum 15 years qualifying service is mandatory to earn pension from Army.

As regards delay, applicant's husband being discharged from service, limitation will reckon from the date of discharge i.e. 30 Jun 1970 and not from 02 November 2020 when her representation for grant of family pension was rejected. Applicant has not assigned any reason for inordinate delay of 18235 days whereas it was obligatory for her to offer satisfactory explanation on day to day basis. In the absence of explanation delay is not liable to be condoned.

In view of the above, Original Application is **dismissed** on merit and on the ground of delay also.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/-

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

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

Suppl. 9. O.A. No. 1039 of 2022 with M.A. No. 1247 of 2022

Ex. Sub. M.C. Joshi
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>08.12.2022</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 Vikram Singh Dhapola, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents.</p> <p>This Original application has been filed for the grant of service pension to the applicant.</p> <p>There is a delay of 22 Years, 03 months and 22 days in filing of Original Application.</p> <p>Being a pensionary matter, delay is condoned. Delay condonation application stands disposed off.</p> <p><u>O.A. No. 1039 of 2022</u></p> <p>Heard Shri Vikram Singh Dhapola, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents.</p> <p>Subject to verification of documents, 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>

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

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

Suppl. 10. O.A. No. 1040 of 2022

Ex. Nk. Min Bahadur Thapa
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>08.12.2022</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 Kishore Rai Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents.</p> <p>This Original Application has been filed for the grant of disability pension to the applicant.</p> <p>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 thereafter.</p> <p>List on 02.03.2023.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>AKD/-</p>

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

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

Suppl. 11. O.A. No. 1044 of 2022 with M.A. No. 1251 of 2022

Col. Mahipal Singh Deopa (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>08.12.2022</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 Bhanu Pratap Singh Chauhan, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents.</p> <p>This Original Application has been filed for the grant of notional increment to the applicant.</p> <p>There is a delay of 03 months and 04 days in filing of Original Application.</p> <p>Being a pensionary matter, delay is condoned. Delay condonation application stands disposed off.</p> <p><u>O.A. No. 1044 of 2022</u></p> <p>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 26.08.1989 and retired on 30.06.2020 is entitled for grant of last increment due on 01.07.2020 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>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</p>

increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.200 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2020. Therefore, benefit of the Hon'ble Madras High Court order being *in personam* cannot be extended to the applicant and hence, Original Application is liable to be dismissed.

The law on notional increment has already been settled by the Hon'ble Madras High Court in the case of ***P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others*** (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 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.”

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 30.06.2020, but the increment fell due on the next day of his retirement 01.07.2020, on which date he was not in service, he has to be treated as having completed one full year of service.

In view of the above, subject to verification of documents, 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 01.07.2019 to 30.06.2020, as he has completed one full year of service, though his increment fell on 01.07.2020, 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

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/-