

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

Dy No. 1824 of 2019 Inre O.A. (Nil) of 2019

Ex Sep Praveen Kuriyal
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>08.03.2021</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 and Shri Rajesh Nagarkoti, learned counsel for the applicant and Ms Pushpa Bhatt, learned counsel for the respondents are present.</p> <p>Judgment reserved.</p> <p>For orders, see our judgment on separate sheets.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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 NAINITAL)

Ex-A/117 of 2017 Inre O.A. No. 244 of 2014

Balwant Singh Parihar

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>08.03.2021</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 Anil Anthwal, Advocate holding brief of Shri CS Rawat, learned counsel for the applicant and Shri Rajesh Sharma, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the respondents, list on 09.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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 NAINITAL)

Ex-A/214 of 2018 Inre O.A. No. 243 of 2014

Ex Sep 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>08.03.2021</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 Anil Anthwal, Advocate holding brief of Shri CS Rawat, learned counsel for the applicant and Ms Pushpa Bhatt, learned counsel for the respondents are present.</p> <p>As prayed by learned counsel for the respondents, list on 09.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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 NAINITAL)

Ex-A/90 of 2019 Inre O.A. No. 185 of 2017

Ex Nk Naval Kishor
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>08.03.2021</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, learned counsel for the applicant and Shri Rajesh Sharma, learned counsel for the respondents are present.</p> <p>List on 10.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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 NAINITAL)

M.A. No. 327 of 2020 Inre O.A. (Nil) of 2020

Ex Lance Nk Hayat 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>08.03.2021</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, learned counsel for the applicant and Shri Neeraj Upreti, learned counsel for the respondents are present.</p> <p>Counter affidavit filed by the respondents is taken on record.</p> <p>Copy of PPO has been annexed alongwith PPO which shows that grievance of applicant has been redressed.</p> <p>In view of the above, O.A. has rendered infructuous.</p> <p>Accordingly, O.A. is dismissed as infructuous.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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 NAINITAL)

M.A. No. 133 of 2021 Inre O.A. (Nil) of 2020

Ex Sep Trilochan Bhatt
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>08.03.2021</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 Prem Prakash Bhatt, learned counsel for the applicant and Ms Pushpa Bhatt, learned counsel for the respondents are present.</p> <p style="text-align: center;"><u>M.A. No. 133 of 2021</u></p> <p>The Original Application has been filed with delay of 31 years, 07 months and 05 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but on account of reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that cause shown by the applicant is not sufficient.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing of application is condoned. Application stands decided accordingly.</p> <p>Let Original Application be registered.</p> <p style="text-align: center;"><u>O.A. No. 165 of 2021</u></p> <p>It is a fit case for adjudication.</p> <p>Admit.</p> <p>Ld. Counsel for the respondents seeks and is allowed one day time to file Counter Affidavit.</p> <p>List on 10.03.2021 for hearing.</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>rathore</p>

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

O.A. No. 486 of 2020

Ex Rect Guru Prasad
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>08.03.2021</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>1. Heard Shri CS Rawat, learned counsel for the applicant and Ms Pushpa Bhatt, learned counsel for the respondents.</p> <p>2. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-</p> <p style="text-align: center;">“Humble petitioner/applicant seeks prayer to summon the entire records including on the file of PCDA (P), Allahabad and to grant/sanction of disability pension to the applicant with arrear w.e.f. 17.11.2001, otherwise petitioner shall suffer irreparable loss and injury. Such other suitable order is deemed fit and proper in the facts and circumstances of the case also kindly be pleased to meet in the interest of justice”.</p> <p>3. Brief facts of the case are that the applicant was enrolled in the Indian army on 08.08.2001 and was invalided out of service w.e.f. 17.11.2001 in low medical category '(S1AH1A5P1E1)' due to 'SCOLIOSIS FOR IMB V-67'. The Invaliding Medical Board (IMB) has assessed his disability @ 11-14% for life neither attributable to nor aggravated by military service (NANA). Disability pension claim of applicant was rejected vide order dated 03.05.2002. Records reveal that no appeal has been filed against rejection of disability pension claim and applicant has filed this O.A. for grant of disability pension.</p> <p>4. Learned counsel for the applicant pleaded that applicant was enrolled in the army in medically and physically fit condition. It was further pleaded that a member</p>

is to be presumed in sound physical and mental condition upon entering service if there is no note or record to the contrary at the time of entry. In the event of his subsequently being invalided out from service on medical grounds, any deterioration in his health is to be presumed due to service conditions. He pleaded that applicant was under stress of service conditions which may have led to occurrence of the disability. He pleaded for disability pension to be granted to applicant.

5. On the other hand, Ld. Counsel for the respondents submitted that prior to start of basic military training applicant's re-medical examination was carried out in which he was found to be suffering from '**SCOLIOSIS FOR IMB V-67**' by Senior Adviser Medicine on 01.09.2001. The IMB conducted on applicant has assessed disability element @ 11-14% for life (i.e. less than 20%) neither attributable to nor aggravated by military service. He further submitted that on account of disability being NANA, his disability pension claim was rightly rejected. He pleaded the O.A. to be dismissed.

6. We have heard learned counsel for both sides and perused the material placed on record.

7. On careful perusal of the medical documents, it has emerged that applicant was enrolled on 08.08.2001 and prior to start of military training during re-medical examination, he was found to be suffering from '**SCOLIOSIS FOR IMB V-67**' on 01.09.2001. We have noted remarks endorsed by Senior Adviser, Medicine as under:-

*"Scoliosis and knock knees detected during re-medical.
xxx x x x x x x
Unfit."*

8. The applicant, being a recruit, was recommended to be in medical category 'A5' by the IMB with disability percentage @ 11-14% (i.e. below 20%), therefore, he was rightly discharged from service having physical deformity prior to enrolment. As far as admissibility of disability pension is concerned, the Hon'ble Supreme Court in Civil Appeal No 10870 of 2018 **Union of India & Ors vs Wing Commander SP Rathore**, has made it clear vide order dated 11.12.2019 that disability element is inadmissible when disability percentage is below 20%. Para 9 of the aforesaid judgment being relevant is quoted as under:-

“9. As pointed out above, both Regulation 37 (a) and Para 8.2 clearly provide that the disability element is not admissible if the disability is less than 20%. In that view of the matter, the question of rounding off would not apply if the disability is less than 20%. If a person is not entitled to the disability pension, there would be no question of rounding off.”

9. Additionally, according to Medical Literature '**SCOLIOSIS FOR IMB V-67**' is a physical disorder that causes an abnormal curve of the spine which occurs during growth spurt just before puberty therefore the disability of the applicant is not connected with military service and claim of applicant for disability pension has rightly been denied by the respondents. Applicant is not entitled to disability pension.

10. In view of the above, the O.A. is devoid of merit and deserves to be dismissed. It is accordingly dismissed.

11. No order as to cost.

12. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

rathore

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

O.A. No. 495 of 2020

Ex Hav Sovan Singh Gushani
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>08.03.2021</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>1. Heard Shri CS Rawat, learned counsel for the applicant and Ms Pushpa Bhatt, learned counsel for the respondents are present.</p> <p>2. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-</p> <p style="text-align: center;"><i>“Humble petitioner/applicant seeks prayer to summon the entire records including on the file of PCDA (P), Allahabad and to grant/sanction of disability pension to the applicant with arrear w.e.f. 31.12.2007, otherwise petitioner shall suffer irreparable loss and injury. Such other suitable order is deemed fit and proper in the facts and circumstances of the case also kindly be pleased to meet in the interest of justice”.</i></p> <p>3. Brief facts of the case giving rise to this application are that applicant was enrolled in the Indian Army on 19.02.1988 and after having served for more than 19 years, he was discharged from service in low medical category on 31.12.2007. Prior to discharge from service, applicant was brought before Release Medical Board (RMB) on 05.10.2007 which assessed applicant to be suffering from 'THYROTOXICOSIS V-67 Z-09' with disability @ 20% for life neither attributable to nor aggravated by military service (NANA). Disability claim was rejected vide order dated 17.05.2019. Thereafter, first appeal preferred by applicant against rejection of disability pension claim has not been decided as yet. It is in this perspective that this O.A. has been filed.</p>

4. Learned counsel for the applicant submitted that the applicant was enrolled in the Army in medically and physically fit condition and there is no note in his service documents with regard to suffering from any disease prior to enrolment, therefore, any disability suffered by applicant after joining the service should be considered as attributable to or aggravated by military service and applicant should be entitled to disability pension. Learned counsel for the applicant further submitted that disability pension claim of the applicant has been rejected in a cavalier manner without assigning any meaningful reason. Further submission of learned counsel for the applicant is that since the aforesaid disease is due to stress and strain related rigors of military service, this should be considered either attributable to or aggravated by military service. Learned counsel for the applicant submitted that the instant O.A. is fully covered under various pronouncements of Armed Forces Tribunals and Hon'ble Apex Court. Therefore, the applicant be held entitled to grant of disability pension.

5. On the other hand, learned counsel for the respondents argued that since RMB has declared the applicant's disability as NANA, he is not entitled to disability pension. His further submission is that the competent authority has rightly rejected applicant's disability pension claim on the ground of disability being originated in peace area, therefore, O.A. deserves to be dismissed.

6. The law on attributability of a disability has already been well settled by the Hon'ble Supreme Court in the case of ***Dharamvir Singh Vs. Union of India and Ors***, (2013) 7 SCC 213. In this case the Hon'ble Apex Court took note of the provisions of the Pensions Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers to sum up the legal position emerging from the same in the following words:-

"29.1. Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over.

29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)].

29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9).

29.4. If a disease is accepted to have been as having arisen in

service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service [Rule 14(c)]. [pic]

29.5. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service [Rule 14(b)].

29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons [Rule 14(b)]; and 29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions), 2002 - "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."

7. In view of the settled position of law on attributability/aggravation, we find that the RMB has denied attributability/aggravation to the applicant only by endorsing a cryptic sentence in the proceedings i.e. the disability is constitutional in nature and took place in peace area. We feel that such a discrimination between peace posting and a posting to Field/High Altitude Area/Counter Insurgency operations amounts to saying that there is no stress and strain of military service in peace area, which is not the absolute truth. It is trite law that any disability not recorded at the time of recruitment must be presumed to have been caused subsequently, and, unless proved to the contrary is to be considered as a consequence of military service. The benefit of doubt, therefore, shall be rightly extended in favour of the applicant. In the instant case, since the applicant was found to be suffering from disability when he had put in more than 15 years of service, it should be deemed to be aggravated by military service since it has occurred subsequently after prolonged service. We are, therefore, of the considered opinion that the benefit of doubt should be given to the applicant as per the Hon'ble Supreme Court judgment of **Dharamvir Singh** (supra) and the disability of the applicant should be considered as aggravated by military service. It is also well settled law in terms of **Union of India & Ors vs Wing Commander SP Rathore**, Civil Appeal No. 10870 of 2018 decided on 11.12.2019 that if the disability is assessed @ 20% and more when the person is discharged on completion of terms of engagement, he will be eligible for disability pension. In the case in hand, applicant's disability element is 20% which fully meets aforesaid requirement.

8. In view of the above, applicant is held entitled to 20% disability element for life

which shall stand rounded off to 50% disability element for life from the date of his discharge.

9. As a result of foregoing discussion, the O.A. is **allowed**. The impugned order is set aside. The disability of applicant is held aggravated by military service and the benefit of rounding off to 50% is extended in terms of Hon'ble Apex Court judgment titled ***Union of India and Ors vs. Ram Avtar & Ors***, Civil Appeal No 418 of 2012 dated 10th December 2014. But, due to law of limitation as per Hon'ble Apex Court judgment in the case of ***Shiv Dass vs Union of India & Ors*** reported in 2007 (3) SLR 445, applicant is entitled to arrears of disability element from three years prior to the date of filing Original Application. The O.A. was filed on 17.09.2019. The respondents are directed to complete the entire exercise within four months from today and pay disability element to applicant alongwith arrears.

10. Default will invite interest @ 8% p.a.

11. No order as to costs.

12. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

rathore

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

O.A. No. 496 of 2020

Ex Nk Kashi 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>08.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <ol style="list-style-type: none">1. Heard Shri Kishore Rai, learned counsel for the applicant and Ms Pushpa Bhatt, learned counsel for the respondents.2. Counter affidavit filed by the respondents is taken on record.3. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:- “(i) A direction to quash the order dated 06.11.1998 passed by respondent No 1 (contained as Annexure No 2 to this original application or to - (ii) A direction to grant the disability pension to the applicant from the date of his retirement i.e. 31.01.1996 along with rounding of to the tune of 50%. (iii) To summon the entire records of the applicant pertaining to computation of his disability pension. (iv) Any other relief to which the applicant is found entitled may also very kindly be granted to the applicant”.4. Brief facts of the case giving rise to this application are that applicant was re-enrolled in Defence Security Corps (DSC) on 16.09.1981 and was discharged from service in low medical category on 09.01.1996 for '<u>PRIMARY HYPERTENSION</u>'. Applicant was assessed disability element @ 20% for two years neither attributable to nor aggravated by military service. Disability pension claim was rejected vide order dated 02.12.1996. First appeal was rejected vide order dated 06.11.1998. It

is in this perspective that this O.A. has been filed.

5. Learned counsel for the applicant submitted that the applicant was enrolled in the Army in medically and physically fit condition and there is no note in his service documents with regard to suffering from any disease prior to enrolment, therefore, any disability suffered by applicant after joining the service should be considered as attributable to or aggravated by military service and applicant should be entitled to disability pension. Learned counsel for the applicant further submitted that disability pension claim of the applicant has been rejected in a cavalier manner without assigning any meaningful reason. Further submission of learned counsel for the applicant is that since the aforesaid disease is due to stress and strain related rigors of military service, this should be considered either attributable to or aggravated by military service. Learned counsel for the applicant submitted that the instant O.A. is fully covered under various pronouncements of Armed Forces Tribunals and Hon'ble Apex Court. Therefore, the applicant be held entitled to grant of disability pension.

6. On the other hand, learned counsel for the respondents argued that since RMB has declared the applicant's disability as NANA, he is not entitled to disability pension. His further submission is that the competent authority has rightly rejected applicant's disability pension claim on the ground of disability being originated in peace area, therefore, O.A. deserves to be dismissed.

7. The law on attributability of a disability has already been well settled by the Hon'ble Supreme Court in the case of ***Dharamvir Singh Vs. Union of India and Ors***, (2013) 7 SCC 213. In this case the Hon'ble Apex Court took note of the provisions of the Pensions Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers to sum up the legal position emerging from the same in the following words:-

"29.1. Disability pension to be granted to an individual who is invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over.

29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)].

29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9).

29.4. If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service [Rule 14(c)]. [pic]

29.5. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service [Rule 14(b)].

29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons [Rule 14(b)]; and 29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions), 2002 - "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."

8. In view of the settled position of law on attributability/aggravation, we find that the RMB has denied attributability/aggravation to the applicant only by endorsing a cryptic sentence in the proceedings i.e. the disability is constitutional in nature and took place in peace area. We feel that such a discrimination between peace posting and a posting to Field/High Altitude Area/Counter Insurgency operations amounts to saying that there is no stress and strain of military service in peace area, which is not the absolute truth. It is trite law that any disability not recorded at the time of recruitment must be presumed to have been caused subsequently, and, unless proved to the contrary is to be considered as a consequence of military service. The benefit of doubt, therefore, shall be rightly extended in favour of the applicant. In the instant case, since the applicant was found to be suffering from disability after prolonged service, his disability may be aggravated by military service. We are, therefore, of the considered opinion that the benefit of doubt should be given to the applicant as per the Hon'ble Supreme Court judgment of **Dharamvir Singh** (supra) and the disability of the applicant should be considered as aggravated by military service. It is also well settled law in terms of **Union of India & Ors vs Wing Commander SP Rathore**, Civil Appeal No. 10870 of 2018 decided on 11.12.2019 that if the disability is assessed @ 20% and more when the person is discharged on completion of terms of engagement, he will be eligible for disability pension. In the case in hand, applicant's disability element is 20% for two years which fully meets aforesaid requirement.

9. In view of the above, applicant is held entitled to 20% disability element for

two years with effect from his date of discharge. The respondents are directed to hold applicant's Re-survey Medical Board (RSMB) afresh for re-assessing his present medical condition within a period of three months from the date of receipt of a certified copy of this order. Further entitlement of disability element of pension shall be subject to the outcome of the RSMB.

10. As a result of foregoing discussion, the O.A. is **allowed**. The impugned order is set aside.

11. Default will invite interest @ 8% p.a.

12. No order as to costs.

13. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

rathore

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

O.A. No. 497 of 2020

Ex Sigmn Harish Chandra Singh Koranga
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>08.03.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <ol style="list-style-type: none">1. Heard Shri Kishore Rai, learned counsel for the applicant and Ms Pushpa Bhatt, learned counsel for the respondents.2. Counter affidavit filed by the respondents is taken on record.3. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:- “(i) A direction to quash the order dated 28.07.1992 passed by respondent No 1 (contained as Annexure No 5) to this original application) or to (ii) A direction to grant the disability pension to the applicant from the date of his retirement i.e. 01.02.1989. (iii) To summon the entire records of the applicant pertaining to computation of his disability pension. (iv) Any other relief to which the applicant is found entitled may also very kindly be granted to the applicant”.4. Briefly stated facts of the case are that the applicant was enrolled in Indian Army on 08.04.1980 and was invalided out from service on 31.01.1989 in Low Medical Category EEE (Permanent). The Invaliding Medical Board (IMB) held at Command Hospital (Central Command) on 07.01.1989 assessed his disability 'NEUROTIC DEPRESSION 300, V-67' @ 30% for two years but opined the disability to be neither attributable to nor aggravated (NANA) by military service. The initial claim of disability was rejected by the Principal Controller of Defence Accounts (Pensions), Allahabad on 19.05.1989. Against rejection of disability pension claim,

the applicant preferred first and second appeals which were rejected vide order dated 11.09.1990 and 28.07.1992 respectively. It is in this perspective that the applicant has preferred the present O.A.

5. Learned Counsel for the applicant pleaded that at the time of enrolment, the applicant was found mentally and physically fit for service in the Indian Army and there is no note in the service documents that he was suffering from any disease at the time of enrolment in Army. The disease of the applicant was contracted during the service, hence it is attributable to and aggravated by Military Service. He pleaded that various Benches of Armed Forces Tribunal have granted disability pension in similar cases, as such the applicant be granted disability pension as well as arrears thereof. He further submitted that in similar cases, Hon'ble Apex Court and various Benches of the Armed Forces Tribunals have granted disability pension, as such the applicant is entitled to disability pension and its rounding off to 50%.

6. On the other hand, Ld. Counsel for the respondents contended that disability of the applicant i.e. '**NEUROTIC DEPRESSION 300, V-67**' has been regarded as 30% for two years by IMB. However, since the disability was opined by IMB to be neither attributable to nor aggravated by military service, his claim for grant of disability pension was rightly rejected. He pleaded for dismissal of the O.A.

7. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents. We have also gone through the Invaliding Medical Board proceedings. The questions which need to be answered are of two folds :-

(a) Whether the disability of applicant attributable to or aggravated by military service?

(b) Whether the applicant is entitled for the benefit of rounding off of his disability pension, if yes, from which date?

8. The law on attributability of a disability has already been settled by the Hon'ble Supreme Court in the case of ***Dharamvir Singh Versus Union of India & Others***, reported in (2013) 7 Supreme Court Cases 316. In this case the Apex Court took note of the provisions of the Pensions Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers to sum up the legal position emerging from the same in the following words.

"29.1. Disability pension to be granted to an individual who is

invalidated from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over. The question whether a disability is attributable to or aggravated by military service to be determined under the Entitlement Rules for Casualty Pensionary Awards, 1982 of Appendix II (Regulation 173).

29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)].

29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9).

29.4. If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service [Rule 14(c)]. [pic]

29.5. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service [Rule 14(b)].

29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons [Rule 14(b)]; and 29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions), 2002 - "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."

9. In view of the settled position of law on attributability, we find that the IMB has denied attributability to the applicant only by endorsing that the disability '**NEUROTIC DEPRESSION 300, V-67**' to be neither attributable to nor aggravated (NANA) by military service and not connected with service. The disability was first detected on 12.07.1985 i.e. after about 05 years of military service. We are, therefore, of the considered opinion that the reasons given in IMB for declaring disease as NANA are brief and cryptic in nature. Therefore, benefit of doubt in these circumstances should be given to the applicant in view of **Dharamvir Singh** (supra) and the disability of the applicant should be considered as aggravated by military service, as such the applicant is entitled to the disability pension for two years from the date of his discharge i.e. 31.01.1989.

10. As for as the benefit of Broad Banding is concerned, since benefit of broad banding has been extended w.e.f. 01.01.1996, hence, prima facie the applicant is not entitled to broad banding for period in question i.e. two years from 31.01.1989.

11. Since the applicant's IMB was valid for two years w.e.f. 31.01.1989, hence, the respondents will now have to conduct a fresh RSMB for him.

12. In view of the above, the Original Application is **partly allowed**. The impugned orders are set aside. The disability of the applicant '**NEUROTIC DEPRESSION 300, V-67**' is to be considered as aggravated by military service. The applicant is held to be entitled to disability pension @ 30% for two years from the date of discharge i.e. 31.01.1989. The respondents are directed to conduct a Re-Survey Medical Board for applicant to assess his further entitlement of disability element. Respondents are also directed to give effect to the order within four months from the date of receipt of a certified copy of this order failing which the respondents shall have to pay interest @ 9% per annum till the date of actual payment.

13. No order as to costs.

14. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

rathore

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

O.A. No. 498 of 2020

Ex Rfn Deepak 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>08.03.2021</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>1. Heard Shri Kishore Rai, learned counsel for the applicant and Ms Pushpa Bhatt, learned counsel for the respondents.</p> <p>2. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-</p> <p style="padding-left: 40px;">“(i) A direction to quash the order dated 21.12.2017 passed by respondent No 1 (contained as Annexure No 3) to this original application) or to</p> <p style="padding-left: 40px;">(ii) A direction to grant the disability pension to the applicant from the date of his retirement i.e. 30.09.2017 alongwith rounding off to the rune of 50%.</p> <p style="padding-left: 40px;">(iii) To summon the entire records of the applicant pertaining to computation of his disability pension.</p> <p style="padding-left: 40px;">(iv) Any other relief to which the applicant is found entitled may also very kindly be granted to the applicant”.</p> <p>3. Brief facts of the case giving rise to this application are that applicant was enrolled in the Indian Army on 08.09.2000 and after having served for more than 17 years, he was discharged from service in low medical category on 30.09.2017 in terms of Rule 13 (3) III (i) of Army Rules, 1954. Prior to discharge from service, applicant was brought before Release Medical Board (RMB) on 13.04.2017 which assessed applicant to be suffering from 'SEIZURE DISORDER (ICD NO G 40.0)' with disability @ 11-14% for life neither attributable to nor aggravated by military service (NANA). Disability pension claim was rejected and communicated to</p>

applicant vide order dated 21.12.2017. Thereafter, first appeal preferred by applicant against rejection of disability pension claim was also rejected vide order dated 29.08.2018. It is in this perspective that this O.A. has been filed.

4. Learned counsel for the applicant submitted that the applicant was enrolled in the Army in medically and physically fit condition and there is no note in his service documents with regard to suffering from any disease prior to enrolment, therefore, any disability suffered by applicant after joining the service should be considered as attributable to or aggravated by military service and applicant should be entitled to disability pension. Learned counsel for the applicant further submitted that disability pension claim of the applicant has been rejected in a cavalier manner without assigning any meaningful reason. Further submission of learned counsel for the applicant is that since the aforesaid disease is due to stress and strain related rigors of military service, this should be considered either attributable to or aggravated by military service. Learned counsel for the applicant submitted that the instant O.A. is fully covered under various pronouncements of Armed Forces Tribunals and Hon'ble Apex Court. Therefore, the applicant be held entitled to grant of disability pension.

5. On the other hand, learned counsel for the respondents submitted that since RMB has declared the applicant's disability as NANA, he is not entitled to disability pension. His further submission is that the competent authority has rightly rejected applicant's disability pension claim on the ground of disability being originated in peace area, therefore, O.A. deserves to be dismissed.

6. We have perused the material placed on record.

7. The applicant was enrolled on 08.09.2000 and was discharged from service w.e.f. 30.09.2017 and he is in receipt of service pension. Vide RMB dated 13.04.2017 applicant was assessed '**SEIZURE DISORDER (ICD NO G 40.0)**' @ 11-14% for life neither attributable to nor aggravated by military service.

8. In this regard, in a recent judgment on disability pension the Hon'ble Apex Court in Civil Appeal No 10870 of 2018, **Union of India & Ors vs Wing Commander SP Rathore**, has made it clear vide order dated 11.12.2019 that disability element is inadmissible when disability percentage is below 20%. Para 9 of the aforesaid judgment being relevant is quoted as under:-

"9. As pointed out above, both Regulation 37 (a) and Para 8.2 clearly provide that the disability element is not admissible if the disability

is less than 20%. In that view of the matter, the question of rounding off would not apply if the disability is less than 20%. If a person is not entitled to the disability pension, there would be no question of rounding off."

9. In view of the above, applicant is not entitled to disability element.
10. O.A. lacks merit and same is accordingly **dismissed**.
11. Pending application, if any, stands disposed of.
12. No order as to costs.
13. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

rathore

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

O.A. No. 502 of 2020

Ex Sep Kishan 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>08.03.2021</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>1. Heard Shri Kishore Rai, learned counsel for the applicant and Ms Pushpa Bhatt, learned counsel for the respondents.</p> <p>2. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought the following reliefs:-</p> <p style="padding-left: 40px;">“(i) A direction to quash the order dated 08.05.2018 passed by respondent No 1 (contained as Annexure No 4) to this original application) or to</p> <p style="padding-left: 40px;">(ii) A direction to grant the disability pension to the applicant from the date of his retirement i.e. 31.08.2014 alongwith rounding off to the tune of 50%.</p> <p style="padding-left: 40px;">(iii) To summon the entire records of the applicant pertaining to computation of his disability pension.</p> <p style="padding-left: 40px;">(iv) Any other relief to which the applicant is found entitled may also very kindly be granted to the applicant”.</p> <p>3. Brief facts of the case giving rise to this application are that applicant was enrolled in the Indian Army on 21.08.1995 and after having served for more than 19 years, he was discharged from service in low medical category on 31.08.2014. Prior to discharge from service, applicant was brought before Release Medical Board (RMB) on 21.02.2014 which assessed applicant to be suffering from 'PRIMARY HYPERTENSION' with disability @ 30% for life neither attributable to nor aggravated by military service (NANA). Applicant is in receipt of service pension vide PPO No S/35789/2014 dated 10.07.2014. Disability pension claim was rejected vide order dated 11.09.2014. Thereafter, first appeal preferred by applicant against</p>

rejection of disability pension claim has not been decided as yet. It is in this perspective that this O.A. has been filed.

4. Learned counsel for the applicant submitted that the applicant was enrolled in the Army in medically and physically fit condition and there is no note in his service documents with regard to suffering from any disease prior to enrolment, therefore, any disability suffered by applicant after joining the service should be considered as attributable to or aggravated by military service and applicant should be entitled to disability pension. Learned counsel for the applicant further submitted that disability pension claim of the applicant has been rejected in a cavalier manner without assigning any meaningful reason. Further submission of learned counsel for the applicant is that since the aforesaid disease is due to stress and strain related rigors of military service, this should be considered either attributable to or aggravated by military service. Learned counsel for the applicant submitted that the instant O.A. is fully covered under various pronouncements of Armed Forces Tribunals and Hon'ble Apex Court. Therefore, the applicant be held entitled to grant of disability pension.

5. On the other hand, learned counsel for the respondents argued that since RMB has declared the applicant's disability as NANA, he is not entitled to disability pension. His further submission is that the competent authority has rightly rejected applicant's disability pension claim on the ground of disability being originated in peace area, therefore, O.A. deserves to be dismissed.

6. The law on attributability of a disability has already been well settled by the Hon'ble Supreme Court in the case of *Dharamvir Singh Vs. Union of India and Ors*, (2013) 7 SCC 213. In this case the Hon'ble Apex Court took note of the provisions of the Pensions Regulations, Entitlement Rules and the General Rules of Guidance to Medical Officers to sum up the legal position emerging from the same in the following words:-

"29.1. Disability pension to be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by military service in non-battle casualty and is assessed at 20% or over.

29.2. A member is to be presumed in sound physical and mental condition upon entering service if there is no note or record at the time of entrance. In the event of his subsequently being discharged from service on medical grounds any deterioration in his health is to be presumed due to service [Rule 5 read with Rule 14(b)].

29.3. The onus of proof is not on the claimant (employee), the corollary is that onus of proof that the condition for non-entitlement is with the employer. A claimant has a right to derive benefit of any

reasonable doubt and is entitled for pensionary benefit more liberally (Rule 9).

29.4. If a disease is accepted to have been as having arisen in service, it must also be established that the conditions of military service determined or contributed to the onset of the disease and that the conditions were due to the circumstances of duty in military service [Rule 14(c)]. [pic]

29.5. If no note of any disability or disease was made at the time of individual's acceptance for military service, a disease which has led to an individual's discharge or death will be deemed to have arisen in service [Rule 14(b)].

29.6. If medical opinion holds that the disease could not have been detected on medical examination prior to the acceptance for service and that disease will not be deemed to have arisen during service, the Medical Board is required to state the reasons [Rule 14(b)]; and 29.7. It is mandatory for the Medical Board to follow the guidelines laid down in Chapter II of the Guide to Medical Officers (Military Pensions), 2002 - "Entitlement: General Principles", including Paras 7, 8 and 9 as referred to above (para 27)."

7. In view of the settled position of law on attributability/aggravation, we find that the RMB has denied attributability/aggravation to the applicant only by endorsing a cryptic sentence in the proceedings i.e. the disability has occurred at peace area in October, 2012. We feel that such a discrimination between peace posting and a posting to Field/High Altitude Area/Counter Insurgency operations amounts to saying that there is no stress and strain of military service in peace area, which is not the absolute truth. It is trite law that any disability not recorded at the time of recruitment must be presumed to have been caused subsequently, and, unless proved to the contrary is to be considered as a consequence of military service. The benefit of doubt, therefore, shall be rightly extended in favour of the applicant. In the instant case, since the applicant was found to be suffering from disability when he had put in more than 17 years of service, it should be deemed to be aggravated by military service since it has occurred subsequently after prolonged service. We are, therefore, of the considered opinion that the benefit of doubt should be given to the applicant as per the Hon'ble Supreme Court judgment of **Dharamvir Singh** (supra) and the disability of the applicant should be considered as aggravated by military service. It is also well settled law in terms of **Union of India & Ors vs Wing Commander SP Rathore**, Civil Appeal No. 10870 of 2018 decided on 11.12.2019 that if the disability is assessed @ 20% and more when the person is discharged on completion of terms of engagement, he will be eligible for disability pension. In the case in hand, applicant's disability element is 30% which fully meets aforesaid

requirement.

8. In view of the above, applicant is held entitled to 30% disability element for life which shall stand rounded off to 50% disability element for life from the date of his discharge.

9. As a result of foregoing discussion, the O.A. is **allowed**. The impugned order is set aside. The disability of applicant is held aggravated by military service and the benefit of rounding off to 50% is extended in terms of Hon'ble Apex Court judgment titled ***Union of India and Ors vs. Ram Avtar & Ors***, Civil Appeal No 418 of 2012 dated 10th December 2014. But, due to law of limitation as per Hon'ble Apex Court judgment in the case of ***Shiv Dass vs Union of India & Ors*** reported in 2007 (3) SLR 445, applicant is entitled to arrears of disability element from three years prior to the date of filing Original Application. The O.A. was filed on 08.06.2020. The respondents are directed to complete the entire exercise within four months from today and pay disability element to applicant alongwith arrears.

10. Default will invite interest @ 8% p.a.

11. No order as to costs.

12. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

rathore

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

O.A. No. 504 of 2020

Ex Gdsm Mahabeer 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>08.03.2021</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, learned counsel for the applicant and Ms Pushpa Bhatt, learned counsel for the respondents are present.</p> <p>Counter affidavit filed by the respondents is taken on record.</p> <p>Allowed.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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. 512 of 2020

Janardan Prasad

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>08.03.2021</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 T.C. Pandey, learned counsel for the applicant and Ms. Pushpa Bhatt, learned counsel for the respondents are present.</p> <p>Learned counsel for the respondents seeks and is allowed two days time to file counter affidavit</p> <p>List on 10.03.2021.</p> <p>(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p>(Justice Umesh Chandra Srivastava) Member (J)</p> <p>SB</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(Circuit Bench at Nainital)

O.A. No. 513 of 2020

Col Ramender Veer Vikram Shah Jagati (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>08.03.2021</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, learned counsel for the applicant and Shri Rajesh Sharma, learned counsel for the respondents are present.</p> <p style="text-align: center;">Learned counsel for the respondents prays for and is granted four weeks further time to file counter affidavit.</p> <p style="text-align: center;">Rejoinder affidavit, if any, may be filed within two weeks, thereafter.</p> <p style="text-align: center;">List on 22.04.2021 before Registrar Court for exchange of pleadings.</p> <p style="text-align: center;">List on 01.06.2021 before the Bench.</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>

SB

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(Circuit Bench at Nainital)

O.A. No. 514 of 2020

Ex Nk Dalip 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>08.03.2021</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, learned counsel for the applicant and Shri Rajesh Sharma, learned counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted four weeks further time to file counter affidavit.</p> <p>Rejoinder affidavit, if any, may be filed within two weeks, thereafter.</p> <p>List on 22.04.2021 before Registrar Court for exchange of pleadings.</p> <p>List on 01.06.2021 before the Bench.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p>

SB

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(Circuit Bench at Nainital)

O.A. No. 534 of 2020

Ex Rect Himanshu Bhatt
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>08.03.2021</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 Kishore Rai, learned counsel for the applicant and Shri Neeraj Upreti, learned counsel for the respondents assisted by Capt Nitesh Chauhan, Departmental Representative.</p> <p style="text-align: center;">Counter affidavit filed by the respondents is taken on record.</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 Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p>

SB

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(Circuit Bench at Nainital)

O.A. No. 535 of 2020

Ex Rect Govind 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>08.03.2021</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, learned counsel for the applicant and Shri Neeraj Upreti, learned counsel for the respondents are present.</p> <p>Counter affidavit filed by the respondents is taken on record.</p> <p>Learned counsel for the applicant submits that applicant wants to withdraw his case as not pressed.</p> <p>Accordingly, Original Application is dismissed as withdrawn.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(Circuit Bench at Nainital)

O.A. No. 537 of 2020

Ex Hav (ACP-1) 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>08.03.2021</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 N.K. Papnoi, learned counsel for the applicant and Ms. Pushpa Bhatt, learned counsel for the respondents assisted by Capt Nitesh Chauhan, Departmental Representative.</p> <p>Counter affidavit filed by the respondents is taken on record.</p> <p>Original application is allowed.</p> <p>For order, see our judgment passed on separate sheets.</p> <p>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p style="text-align: left;"><small>SB</small></p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(Circuit Bench at Nainital)

O.A. No. 538 of 2020

Ex Sep Harish Chandra 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>08.03.2021</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 D.K. Joshi, learned counsel for the applicant and Shri Neeraj Upreti, learned counsel for the respondents assisted by Capt Nitesh Chauhan, Departmental Representative.</p> <p>Counter affidavit filed by the respondents is taken on record.</p> <p>Original application is allowed.</p> <p>For order, see our judgment passed on separate sheets.</p> <p>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p>

SB

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(Circuit Bench at Nainital)

O.A. No. 37 of 2011

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>08.03.2021</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, Advocate holding brief of Shri Lalit Kumar, learned counsel for the applicant and Shri Rajesh Sharma, learned counsel for the respondents are present.</p> <p style="text-align: center;">Learned counsel holding brief prays for adjournment. Accordingly, the case is adjourned.</p> <p style="text-align: center;">List on 01.06.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p style="text-align: left; margin-left: 10px;">SB</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(Circuit Bench at Nainital)

O.A. No. 538 of 2018

Hav Avtar 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>08.03.2021</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, Advocate holding brief of Shri Lalit Kumar, learned counsel for the applicant and Shri Neeraj Upreti, learned counsel for the respondents are present.</p> <p>Learned counsel holding brief prays for adjournment. Accordingly, the case is adjourned.</p> <p>List on 01.06.2021 for hearing.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>SB</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(Circuit Bench at Nainital)

O.A. No 534 of 2020

Ex Rect Hinanshu Bhatt
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>08.03.2021</u></p> <p><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></p> <p><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>Counter affidavit filed by learned counsel for the respondents today in the Court is taken on record.</p> <p>Original Application is dismissed.</p> <p>For order, see our Judgment passed on separate sheets.</p> <p>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align:center">(Vice Admiral Abhay Raghunath Karve) (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)

M.A. No 162 of 2021 Inre O.A. (Nil) of 2021

Durga Devi
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>08.03.2021</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>Shri Neeraj Upreti , Advocate filed power today in Court on behalf of the respondents which is taken on record. His name shall be shown as learned counsel for the respondents on the next date of listing.</p> <p>Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents assisted by Capt Nitesh Chauhan, OIC Legal Cell.</p> <p>The Original Application has been filed with delay of 53 years, 02 months and 04 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as it is not on day to day basis.</p> <p>Considering that in pensionary matters bar of limitation is not applicable, as cause of action in such matters accrue every month and cause shown for the delay is sufficient, we condone the delay.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 157 of 2021</u></p> <p>It is a fit case for 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 the matter before Registrar on 22.04.2021 for exchange of pleadings.</p> <p>List on 01.06.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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)**

M.A. No. 163 of 2021 Inre : O.A. No. (Nil) of 2021

Ex Sep Arun 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>08.03.2021</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>Shri Neeraj Upreti , Advocate filed power today in Court on behalf of the respondents which is taken on record. His name shall be shown as learned counsel for the respondents on the next date of listing.</p> <p>Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents assisted by Capt Nitesh Chauhan, OIC Legal Cell.</p> <p>The Original Application has been filed with delay of 25 years, 02 months and 27 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as it is not on day to day basis.</p> <p>Considering that in pensionary matters bar of limitation is not applicable, as cause of action in such matters accrue every month and cause shown for the delay is sufficient, we condone the delay.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 158 of 2021</u></p> <p>It is a fit case for 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 the matter before Registrar on 22.04.2021 for exchange of pleadings.</p> <p>List on 01.06.2021.</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>UKT/-</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(Circuit Bench at Nainital)
M.A. No. 165 of 2021 Inre : O.A. No. (Nil) of 2021

Ex Hav H/ Nb Sub Kishna Nand
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>08.03.2021</u></p> <p><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;">Ms. Pushpa Bhatt , Advocate filed power today in Court on behalf of the respondents which is taken on record. Her name shall be shown as learned counsel for the respondents on the next date of listing.</p> <p style="text-align: center;">Heard Shri Kishore Rai, Ld. Counsel for the applicant and Ms. Pushpa Bhatt, Ld. Counsel for the respondents assisted by Capt Nitesh Chauhan, OIC Legal Cell.</p> <p style="text-align: center;">Learned counsel for the respondents prays for and is granted one day time to file objection on delay.</p> <p style="text-align: center;">As prayed, list on 09.03.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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)

M.A. No. 166 of 2021 Inre : O.A. No. (Nil) of 2021

Ex Nb Sub Mahendar Singh Rawat
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>08.03.2021</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>Ms. Pushpa Bhatt , Advocate filed power today in Court on behalf of the respondents which is taken on record. Her name shall be shown as learned counsel for the respondents on the next date of listing.</p> <p>Heard Shri Kishore Rai, Ld. Counsel for the applicant and Ms. Pushpa Bhatt, Ld. Counsel for the respondents assisted by Capt Nitesh Chauhan, OIC Legal Cell.</p> <p>The Original Application has been filed with delay of 07 years, 05 months and 11 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as it is not on day to day basis.</p> <p>Considering that in pensionary matters bar of limitation is not applicable, as cause of action in such matters accrue every month and cause shown for the delay is sufficient, we condone the delay.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 160 of 2021</u></p> <p>It is a fit case for 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 the matter before Registrar on 22.04.2021 for exchange of pleadings.</p> <p>List on 01.06.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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)

M.A. No. 167 of 2021 Inre : O.A. No. (Nil) of 2021

Ex Nk Prem Bahadur
 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>08.03.2021</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>Ms. Pushpa Bhatt , Advocate filed power today in Court on behalf of the respondents which is taken on record. Her name shall be shown as learned counsel for the respondents on the next date of listing.</p> <p>Heard Shri Kishore Rai, Ld. Counsel for the applicant and Ms. Pushpa Bhatt, Ld. Counsel for the respondents assisted by Capt Nitesh Chauhan, OIC Legal Cell.</p> <p>The Original Application has been filed with delay of 24 years, 04 months and 03 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as it is not on day to day basis.</p> <p>Considering that in pensionary matters bar of limitation is not applicable, as cause of action in such matters accrue every month and cause shown for the delay is sufficient, we condone the delay.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 161 of 2021</u></p> <p>It is a fit case for 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 the matter before Registrar on 22.04.2021 for exchange of pleadings.</p> <p>List on 01.06.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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)

M.A. No. 168 of 2021 Inre : O.A. No. (Nil) of 2021

Ex Nk Birendra Kumar Lakhera
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>08.03.2021</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>Shri Rajesh Sharma, Advocate filed power today in Court on behalf of the respondents which is taken on record. His name shall be shown as learned counsel for the respondents on the next date of listing.</p> <p>Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents assisted by Capt Nitesh Chauhan, OIC Legal Cell.</p> <p>The Original Application has been filed with delay of 17 years, 07 months and 07 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as it is not on day to day basis.</p> <p>Considering that in pensionary matters bar of limitation is not applicable, as cause of action in such matters accrue every month and cause shown for the delay is sufficient, we condone the delay.</p> <p>Let Original Application be registered.</p> <p><u>O.A. No. 162 of 2021</u></p> <p>It is a fit case for 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 the matter before Registrar on 22.04.2021 for exchange of pleadings.</p> <p>List on 01.06.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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)

M.A. No. 169 of 2021 Inre : O.A. No. (Nil) of 2021

Ex Sep Bhim Dutt
 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>08.03.2021</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-indent: 40px;">Shri Rajesh Sharma, Advocate filed power today in Court on behalf of the respondents which is taken on record. His name shall be shown as learned counsel for the respondents on the next date of listing.</p> <p style="text-indent: 40px;">Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Rajesh Sharma, Ld. Counsel for the respondents assisted by Capt Nitesh Chauhan, OIC Legal Cell.</p> <p style="text-indent: 40px;">The Original Application has been filed with delay of 46 years, 05 months and 11 days.</p> <p style="text-indent: 40px;">Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated.</p> <p style="text-indent: 40px;">Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as it is not on day to day basis.</p> <p style="text-indent: 40px;">Considering that in pensionary matters bar of limitation is not applicable, as cause of action in such matters accrue every month and cause shown for the delay is sufficient, we condone the delay.</p> <p style="text-indent: 40px;">Let Original Application be registered.</p> <p><u>O.A. No. 163 of 2021</u></p> <p style="text-indent: 40px;">It is a fit case for adjudication.</p> <p style="text-indent: 40px;">Admit.</p> <p style="text-indent: 40px;">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 style="text-indent: 40px;">List the matter before Registrar on 22.04.2021 for exchange of pleadings.</p> <p style="text-indent: 40px;">List on 01.06.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (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)

M.A. No. 170 of 2021 Inre : O.A. No. (Nil) of 2021

Ex Nk Madho 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>08.03.2021</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-indent: 40px;">Shri Neeraj Upreti , Advocate filed power today in Court on behalf of the respondents which is taken on record. His name shall be shown as learned counsel for the respondents on the next date of listing.</p> <p style="text-indent: 40px;">Heard Shri Kishore Rai, Ld. Counsel for the applicant and Shri Neeraj Upreti, Ld. Counsel for the respondents assisted by Capt Nitesh Chauhan, OIC Legal Cell..</p> <p style="text-indent: 40px;">The Original Application has been filed with delay of 02 years, 04 months and 15 days.</p> <p style="text-indent: 40px;">Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated.</p> <p style="text-indent: 40px;">Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as it is not on day to day basis.</p> <p style="text-indent: 40px;">Considering that in pensionary matters bar of limitation is not applicable, as cause of action in such matters accrue every month and cause shown for the delay is sufficient, we condone the delay.</p> <p style="text-indent: 40px;">Let Original Application be registered.</p> <p><u>O.A. No. 164 of 2021</u></p> <p style="text-indent: 40px;">It is a fit case for adjudication.</p> <p style="text-indent: 40px;">Admit.</p> <p style="text-indent: 40px;">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 style="text-indent: 40px;">List the matter before Registrar on 22.03.2021 for exchange of pleadings.</p> <p style="text-indent: 40px;">List on 01.06.2021.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava) Member (A) Member (J)</p> <p>UKT/-</p>