

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

**O.A. No. 302 of 2022 with M.A. No. 352 of 2022**

**Smt. Urmila Nigam W/o Late Ex Sep. Indra Narayan Nigam** Applicant  
By Legal Practitioner for the Applicant

**Versus**

**Union of India & Others** Respondents  
By Legal Practitioner for Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>26.04.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>Memo of appearance filed by Ms. Appoli Srivastava, Advocate on behalf of the respondents is taken on record.</p> <p>Heard Shri Pankaj Kumar Shukla and Shri Ankur Saxena, learned counsel for the applicant and Ms. Appoli Srivastava, learned counsel for the respondents.</p> <p>The applicant has filed this Original Application for the grant of invalid pension to her husband from the date of his invalidment from service (17.08.1968) to till his death (17.10.2006) and family pension to herself from the date of death of her husband.</p> <p>There is a delay of 51 years and 28 days in filing Original Application regarding which an application for condonation of delay has been filed.</p> <p>Submission of Ld. Counsel for the applicant is that delay in filing Original Application is not intentional. His further submission is that applicant was enrolled in Indian Army on 21.10.1963 and was invalidated out from service on 17.08.1968 in low medical category. The applicant's husband died on 17.10.2006 as he was suffering from "Anxiety State With Hysterical Features". The applicant made protracted correspondence with various Army authorities for grant of disability pension of her husband and family pension to herself as her husband was under extreme stress and strain while in service, due to military operations of 1965 war. The applicant has written several letters to the authorities from 2015 to 2018 but no favourable reply was received from the respondents. The applicant also submitted an appeal dated 24.12.2020 for redressal of her grievance but same has been rejected vide impugned order dated 08.10.2021. Thus, submission is that delay is not deliberate, but for the reasons stated above.</p> <p>Learned counsel for the applicant further submitted that since husband of the applicant was invalidated out from service, applicant be granted disability pension of her husband and after death of her husband, applicant be granted family pension in view of various pronouncements of the Hon'ble Apex Court on the subject.</p>

Ld. Counsel for the respondents has vehemently opposed the prayer and has submitted that long delay of more than 51 years has not been properly and satisfactorily explained. The soldier being a non pensioner, his service documents have been destroyed by burning after expiry of the stipulated retention period. Therefore, the applicant cannot be given any relief at this belated stage. She pleaded for dismissal of the O.A.

Having heard the submissions of Ld. Counsel of both sides and considering the facts and circumstances of the case, we find that explanation offered by the applicant for delay in filing Original Application is not sufficient. It is settled in law that if time limit is given for filing of any application and the same is not filed within that time limit, delay should be explained on day to day basis which applicant has utterly failed in the present case.

In view of the above, we are unable to decide the case in vacuum after a prolonged gap of more than 51 years from the date of invaliding out of applicant's husband from service. In the result, we find that delay is not condonable. O.A. is devoid of merit for want of supporting service/medical documents and is therefore liable to be dismissed.

Accordingly, delay condonation application is **rejected**.

Original Application being time barred is also **rejected**.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

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