

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

**O.A. No. 723 of 2020**

**Ex Swr Navinder 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><b><u>18.02.2022</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>Heard Shri Vinay Pandey, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents.</p> <p>This Original Application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-</p> <p>(i) <i>To pass an order/direction directing the respondent to continue the service pension of the applicant from the December 2009 alongwith all arrears (as per Annexure A-31).</i></p> <p>(ii) <i>To pass any other relief as this Hon'ble Tribunal considers in the peculiar facts and circumstances of the case in favour of the applicant.</i></p> <p>(iii) <i>The Hon'ble Tribunal may also graciously be pleased to award exemplary cost of Rs. 1,00,000/- in favour of applicant, for unnecessary litigation."</i></p> <p>Brief facts of the case is that applicant was enrolled in the Army on 06.07.1965 and discharged from service with effect from 28.07.1970 (AN) under Army Rule 13 (3) III (v) of Army Rules, 1954 being placed in low medical category and not upto the prescribed military physical standard. The applicant rendered 05 years and 22 days of service in the Army. He was granted disability pension w.e.f. 28.07.1970 vide PPO dated 12.07.1971 and revised subsequently as per rules. The applicant was convicted in an offence punishable under Section 302 IPC by the Court of Additional Session Judge, Shahjahanpur on 31.01.1981 and was awarded life imprisonment. Accordingly, his disability pension had been stopped w.e.f. 01.12.2009 as per Para 102 of Pension Regulations for the Army, Part-II (2008) The applicant was released from jail on 28.10.2017 on the mercy appeal vide DM, Pilibhit release order dated 27.10.2017 and release certificate dated 23.01.2018 issued by Jailer, Central Jail, Bareilly (UP). Due to his conviction disability pension of the applicant was stopped w.e.f. 01.12.2009. Since, the applicant</p>

has been released from jail, sanction of the competent authority for restoration of pension of the applicant has been processed to PCDA (P) Allahabad vide Armoured Corps Records letter dated 09.03.2021. Being aggrieved, the applicant has filed the present Original Application for restoration of his pension.

Learned counsel for the applicant submitted that applicant was convicted for life imprisonment in an offence by the order of Additional Sessions Judge, Shahjahanpur vide order dated 31.01.2018. The service pension of the applicant was stopped by the PDA without giving any show cause notice from December 2009. The applicant preferred the mercy petition and in pursuance to government order dated 24.09.2017, applicant was released from Jail vide order 28.10.2017. After release from Central Jail, Bareilly, the applicant after completing requisite formalities made correspondence with competent authorities for restoration of service pension but the same has not yet been restored by the respondents. He also submitted that his case is fully covered with the case of **Col Gajraj Singh vs. Union of India & Others**, MLJ 1998 P&H 104 and **Ex Sub Maj Nasib Singh vs. Union of India & Ors**, (1997) 115 PLR 658, decided on 31.10.21996 and pleaded that service pension of the applicant should be restored from December 2009 alongwith all arrears.

Learned counsel for the respondents submitted that applicant was convicted for an offence punishable under Section 302 IPC by the Court of Additional Sessions Judge, Shahjahanpur on 31.01.1981 and awarded life imprisonment. Accordingly, his disability pension had been stopped w.e.f. 01.12.2009 as per Para 102 of Pension Regulations for the Army, Part-II (2008). The applicant was released from jail on 28.10.2017 on the mercy appeal vide DM, Pilibhit release order dated 27.10.2017. Since, the applicant has been released from jail, sanction of the competent authority for restoration of pension of the applicant has been processed to PCDA (P) Allahabad vide Armoured Corps Records letter dated 09.03.2021. Hence, the case for restoration of disability pension of the applicant is under process with PCDA (P) Allahabad. He pleaded for dismissal of Original Application being infructuous.

It is clarified that applicant was in receipt of disability pension which was stopped on being convicted by a Criminal Court and not service pension as claimed by the applicant.

In view of above, Original Application is disposed off finally. Since, the applicant has been released from jail on 28.10.2017, any decision or order passed with regard to stoppage of disability pension of the applicant is set aside. The action for restoration of disability pension of the applicant by the respondents is already under process. The respondents shall restore the payment of disability pension to the applicant with effect from the date he has been released from jail i.e. 28.10.2017.

The Respondents are directed to comply with the order within a period of four months from the date of receipt of certified copy of the order. Default will invite interest @ 8% per annum till actual payment.

No order as to costs.

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

**(Vice Admiral Abhay Raghunath Karve)**  
Member (A)

**(Justice Umesh Chandra Srivastava)**  
Member (J)

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