

**Form No. 4**  
**{See rule 11(1)}**  
**ORDER SHEET**  
**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**  
**Court No. 1 (Sl. No. 20)**

**O.A. No. 672 of 2023 with M.A. No. 815 of 2023**

**Ex. Hav. Bom Bhadur Thapa** Applicant  
By Legal Practitioner for the Applicant : Shri Veer Raghav Chaubey, Advocate

**Versus**

**Union of India & Others** Respondents  
By Legal Practitioner for Respondents : Dr. Shailendra Sharma Atal, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><b><u>10.01.2024</u></b> <b><u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Atul Kumar Jain, Member (A)</u></b></p> <p>1. On the case being taken up for hearing Shri Veer Raghav Chaubey, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>2. This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs :-</p> <p style="padding-left: 40px;">(i) <i>This Hon'ble Tribunal may grant the disability pension to the applicant w.e.f. his date of discharge dated 20.02.1986.</i></p> <p style="padding-left: 40px;">(ii) <i>Pass any other order or direction which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.</i></p> <p>3. As per registry report, there is a delay of 34 years, 09 months and 24 days in filing of Original Application as per provision provided in Section 22 of the Armed Forces Tribunal Act, 2007.</p> <p>4. Applicant has filed delay condonation application supported by affidavit in which it is submitted that delay is not deliberate but due to reasons shown in affidavit annexed with delay condonation application. Reliance has been made on principle laid down by Hon'ble Apex Court in <b><i>Collector, Land Acquisition, Anantnag and Another Versus Mst. Kajiti and Others</i></b>, (1987) 2 Supreme Court Cases 107.</p> <p>5. Ld. Counsel for the respondents has raised objection and has filed detailed objection on delay condonation application in which it is submitted that there is long delay of more than 30 years which has not been properly explained. In catena of cases Courts have laid down that the Courts are not for the people who are not vigilant and sleep over their rights. Reliance has been made on the principle laid down by the Hon'ble Apex Court in <b><i>Union of India Versus A. Durairaj (Dead)</i></b>, 2010 (14) SCC 389 and <b><i>Balwant Singh (Dead) Versus Jagdish Singh &amp; Others</i></b>, (2010) 8 SCC 685. He submitted that</p>

applicant was non pensioner, therefore, his medical documents including constituents thereof have been destroyed after expiry of retention period as per Regulation 595 of Regulations for the Army 1987. Long Roll in respect of pensioners and non- pensioners are retained for a period of 50 years and 25 years respectively from the date of becoming non-effective. Further submission of learned counsel for the respondents is that since documents relating to applicant have been destroyed on expiry of mandatory retention period of 25 years being a non-pensioner, therefore, degree of disablement cannot be ascertained at this stage.

6. Applicant was granted time to file reply to the objection and supportive documents which has not been filed.

7. We have heard Ld. Counsel for the parties on delay condonation application and perused the record.

8. There is very long delay of more than 34 years in filing the Original Application. For its explanation it is submitted that applicant was writing letters to the authorities and on 10.02.2000 he was informed by the Records that his Appeal has not been accepted by the P.C.D.A. (Pension), Allahabad. This fact has also been averred in Original Application. No proper and convincing explanation has been given that why did he not approached the Court after that. He approached this Tribunal on 01.06.2023. As submitted by the Ld. Counsel for the respondents, as per provision in Regulation 595 of the Regulations for the Army, 1987 (Revised Edition) records are weeded out after a period of 25 years. The applicant himself was not vigilant and careful for approaching the Tribunal within limitation period. His prayer does not deserve to be entertained.

9. In view of above, delay condonation application is **dismissed**.

10. Original Application being time barred is also **dismissed**.

(Vice Admiral Atul Kumar Jain)  
Member (A)

(Justice Anil Kumar)  
Member (J)

AKD/-