

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

M.A. No. 587 of 2020 Inre O.A. 479 of 2022

Ex Nk Chandra Bahadur

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>02.06.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri Kishore Rai, learned counsel for the applicant and Shri Rajesh Sharma, learned counsel for the respondents.</p> <p>2. In this case no counter affidavit has been filed.</p> <p>3. Brief facts of the case are that the applicant was enrolled in the Army on 28.07.1973 and was discharged from service on 19.04.1989 in medical category 'CEE' due to Schizophrenia. The medical board had assessed his disability @ 30% for life neither attributable to nor aggravated by military service. Applicant is stated to have submitted an application dated 20.02.1992 to Senior Record Officer, Army Ordnance Corps for grant of disability pension after 19 years from the date of his discharge but no response was received from the respondents. This O.A. has been filed after a prolonged delay.</p> <p>4. There is a delay of more than 30 years in filing Original Application through which prayer has been made to grant disability element of pension.</p> <p>5. In this case no counter affidavit has been filed. During the course of hearing, learned counsel for the respondents submitted that since there is huge delay in filing original application and being a non pensioner the service documents would have been destroyed by now, it may not be possible to decide the case at this stage.</p> <p>6. It is argued by learned counsel for the applicant that the applicant could not file this O.A. in this Tribunal due to unawareness and staying in remote area.</p> <p>7. Learned counsel for the applicant further submitted that delay in filing Original Application is not deliberate, but on account of poverty and unawareness, therefore, the same should be condoned.</p>

8. On the other hand, learned counsel for the respondents has vehemently opposed the prayer and has submitted that there is a long delay of more than 30 years and the same has not been properly and satisfactorily explained as the applicant has not assigned any cogent and convincing reason for not approaching the Tribunal earlier.

9. Having heard submissions of learned counsel of both sides and considering the facts and circumstances of the case, we find that inordinate delay of more than 30 years has not been properly and satisfactorily explained.

10. Needless to say, in a matter where Original Application is not filed within time, applicant is required to explain delay on day to day basis, which applicant has miserably failed and, therefore, he is not entitled to benefit of his so called poverty and unawareness.

11. In view of the above, delay is not liable to be condoned, therefore delay condonation application is **rejected**.

12. 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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