

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

**Court No.1**

**M.A. 450 of 2022 with O.A. No 400 of 2022**

**Ex Sigmn Vijay Nand Saxena**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

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

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>20.05.2022</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 Shri Ashish Kumar Singh, on behalf of respondents is taken on record.</p> <p>Heard Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents on application for condonation of delay in filing Original Application.</p> <p>The applicant has filed this application under Section 14 of the Armed Forces Tribunal Act, 2007 for grant of disability pension from the date of discharge, its rounding off and conduct of resurvey medial board of the applicant.</p> <p>There is delay of 52 years, 02 months and 22 days in filing Original Application.</p> <p>Submission of learned counsel for the applicant is that delay in filing Original Application is not intentional. His further submission is that applicant is a psychoneurosis patient. He was in financial hardship and copy of Release Medical Board was not provided to him. Thus, his submission is that delay is not deliberate, but for the reasons stated above.</p>

Learned counsel for the respondents has vehemently opposed the prayer and has submitted that long delay of more than 52 years has not been properly and satisfactorily explained.

Having heard the submissions of learned counsel of both sides. Section 22 of the Armed Forces Tribunal Act 2007 deals with the limitation, which reads as under:-

**22 Limitation.** —

(1) *The Tribunal shall not admit an application—*

(a) *in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 21 has been made unless the application is made within six months from the date on which such final order has been made;*

(b) *in a case where a petition or a representation such as is mentioned in clause (b) of sub-section (2) of section 21 has been made and the period of six months has expired thereafter without such final order having been made;*

(c) *in a case where the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which jurisdiction, powers and authority of the Tribunal became exercisable under this Act, in respect of the matter to which such order relates and no proceedings for the redressal of such grievance had been commenced before the said date before the High Court.*

(2) *Notwithstanding anything contained in sub-section (1), the Tribunal may admit an application after the period of six months referred to in clause (a) or clause (b) of sub-section (1), as the case may be, or prior to the period of three years specified in clause (c), if the Tribunal is satisfied that the applicant had sufficient cause for not making the application within such period.*

Thus, a plain reading of the aforesaid Section shows that the court before condoning the delay, must be satisfied that the applicant has sufficient cause for not making the application within such period. Admittedly, in this case applicant was discharged from service on 04.09.1967 and thereafter the applicant remained silent and for the first time in the year 2019 applicant sought some information through RTI. This delay of 49 years in moving RTI

could not be explained by the applicant and an attempt has been made during the course of arguments that the applicant was not mentally sound. Such a long period cannot be treated to be a reasonable period. If the period of limitation is taken from the date of RTI, then it would simply make Section 22 of the AFT Act, 2007 meaningless because in that circumstances, any administrative Act of the Armed Forces shall not attain finality, because at any time, the applicant may prefer RTI, may be after lapse of 49 years or more and some order has to be passed by the competent authority on such RTI, then the provision of Section 22 of the AFT Act, 2007 would become meaningless. The purpose of provision of limitation is to give finality to the orders passed by the authority. Until and unless the applicant satisfies the Tribunal that he was not in a position to come before the Tribunal within time due to certain unavoidable circumstances, such huge delay cannot be condoned. In the instant case, the applicant has utterly failed to satisfy us on this point.

After carefully examining the entire record 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 the result, we find that delay is not condonable.

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)

UKT/-