

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW****Miscellaneous Application No. 582 of 2014**

Thursday, this the 15<sup>th</sup> day of October 2015

**Hon'ble Mr. Justice D.P. Singh, Member (J)**  
**Hon'ble Air Marshal Anil Chopra, Member (A)**

13676598F Ex Havildar (Clerk) Udai Shanker Mishra  
Son of late Gaya Prasad Mishra, resident of 603 Patel Nagar  
Near Mohanlal School Gonda (U.P.)

.....Applicant

Ld. Counsel for : **Shri V.P. Pandey, Advocate**  
the Applicant

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Chief of Army Staff, Army Head Quarter, New Delhi.
3. Officer in Charge, Records, Brigade of the Guards, PIN-900746 C/O 56 APO.
4. Commanding Officer, Guards Regiment Centre, (Depot Coy) Kamptee-441001.

.....Respondents

Ld. Counsel for the : **Shri D.K. Pandey, Central**  
Respondents **Govt Counsel assisted by Lt Col**  
**Subodh Verma, Departmental**  
**Representative**

**ORDER (ORAL)**

1. Heard Ld. Counsel for the parties and perused the record.
2. This is an applicant for condonation of delay in preferring the Original Application. Applicant was enrolled in the year 1978 in the Guard Regt. In 1988, on account of injury, he was placed in low medical category.
3. He was granted sheltered appointment in the year 1992. The sheltered appointment was withdrawn by the order dated 14.12.1992. Feeling aggrieved with the said withdrawal order, the applicant has preferred this Original Application.
4. The applicant prays for condonation of delay which is of about 20 years delay. The ground pleaded with regard to delay is that the applicant represented his case from time to time but did not get response. He got reply in response to his letter dated 18.10.2006. He was informed vide order dated 04.01.2007 that the order of withdrawal of sheltered appointment is valid and legal. The applicant approached the Chief Commissioner for pension with disabilities also. On 29.11.2010, the Chief Commissioner decided the controversy by deciding the applicant's case. Against the decision taken by the Chief Commissioner, the applicant preferred Original Application in the year 2014. There appears to be omission on the part of the applicant. He approached the competent authority representing his case within reasonable period. He was discharged from army in the year 1992 and the first

decision communicated by respondents is in 2007 and thereafter he submitted reminders on 16.02.2010 and 17.04.2010. The applicant has not reasonably explained the delay from 1992 to 2006. As is evident from the record he was discharged in the year 1992 and even if his contention is accepted, he preferred representation after 8 years and thereafter again slept for a few years, Again after decision of Chief Commissioner while deciding the representation on 2010. the applicant seems to have again slept over his right and preferred the present Original Application in the year 2014.

4. In case a person suffers from his own omission and commission, no one can help. The applicant has failed to explain the delay even after discharge from army.

5. In view of the above, the cause shown for condonation of delay does not seem to be sufficient and we reject the application for condonation of delay.

6. Since the application for condonation of delay has been rejected, as a consequence thereof, the Original Application is also rejected.

No order as to costs.

**(Air Marshal Anil Chopra)**  
**Member (A)**

**(Justice D.P.Singh)**  
**Member (J)**

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