

**Court No. 1****ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW****M.A. No. 1195 of 2017  
In re:  
OA No. (Nil) of 2017**Friday, this the 16<sup>th</sup> day of November, 2018**“Hon’ble Mr. Justice S.V.S. Rathore, Member (J)  
Hon’ble Air Marshal BBP Sinha, Member (A)”**Surendra Singh (No. 2942804 Ex. Sep)  
A/o Sri Narain Singh  
R/o Near Pandey Petrol Pump,  
Bewar,  
District – Mainpuri (U.P.)

..... Applicant

Ld. Counsel for the: **Shri Ashok Kumar, Advocate**  
Applicant

Versus

1. Union of India through Secretary  
Ministry of Defence,  
South Block, Delhi – 110011.
2. The Office Incharge Records,  
Rajput Regiment  
PIN – 900427  
C/o 56 APO
3. Principal Controller of Defence Accounts (Pension),  
Draupadi Ghat,  
Allahabad.

.....Respondents

Ld. Counsel for the: **Ms Appoli Srivastava,**  
Respondents. **Central Govt. Counsel**

**ORDER (Oral)**

1. We have heard learned counsel for the parties on the application for condonation of delay (MA No. 1195 of 2017) and perused the record.
2. As per office report, this OA was filed after a delay of 56 years, 05 months and 18 days.
3. In brief, the facts of the case are that the applicant was enrolled in the Army on 14.11.1953 and discharged from service as a reservist on 01.08.1958. Subsequently, the applicant met with Commandant RRC for clarification of discharge from service while he was transferred to reserve service. Thereafter, the Commandant RRC called Senior Record Officer and discussed the matter of applicant and realised the mistake of Record Office and appointed the applicant as a civilian school master (CSM) in the Education Branch of RRC. After discharging the duties of civilian school master for one year, the applicant was finally discharged from service w.e.f. 01.08.1960.
4. Learned counsel for the applicant submitted that during short tenure of service the performance of the applicant was upto the mark and he participated in many operational work in the unit but he was unable to know the reason for what he was discharged from service as reservist. The discharge book given to the applicant is also not legible, hence the applicant could not produced it before the Court.

5. On 29.05.2015, the applicant submitted an application to the Secretary, Home Ministry, Union of India, New Delhi to grant reservist pension but the same was denied. Thereafter, the applicant sent a legal notice under section 80 C.P.C to the Respondent No. 2, requesting pension of reservist which was denied vide order dated 29.12.2016. The Records, Rajput Regiment order dated 29.12.2016 reads as under :-

**“NON GRANT OF SERVICE PENSION**

1. Refer to Legal Notice dated 15 Dec 2016 served by Jagat Pal Singh Rathore, Advocate on your behalf.

2. It is intimated that on scrutiny of the Long Roll held with this office, it is revealed that you were enrolled into Army on 14 Nov 1953 and was transferred to reserve from Army on 01 Oct 1958, finally you were discharged from Army service on 01 Aug 1960 on extreme compassionate grounds at your own request. Since you have not rendered minimum pensionable service i.e. 15 years, hence you are not entitled for grant of service pension as per Para 132 of Pension Regulation for the Army 1961 part-1.”

6. Learned counsel for the applicant has failed to explain the long delay in moving the aforesaid application, legal notice as also in approaching this Tribunal after more than 56 years in the year 2017. The discharge from service being reservist is not a recurring cause of action.

7. Armed Forces Tribunals were established from 2007. But even then applicant made no effort to approach the Tribunal.

8. Section 22 of the Armed Forces Tribunal Act, 2007 provides for limitation. It 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."*

9. We would like to deal with the issue of limitation raised in the instant case in the light of proposition of law as laid down by the Hon'ble Apex Court in catena of decisions. In the case of **D.Gopinathan Pillai versus State of Kerala and another**, reported in (2007) 2 SCC 322, the Hon'ble Supreme Court has observed as under:

*"5. We are unable to countenance the finding rendered by the Sub-Judge and also the view taken by the High Court. There is no dispute in regard to the delay of 3320 days in filing the petition for setting aside the award. When a mandatory provision is not complied*

*with and when the delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay, only on the sympathetic ground. The orders passed by the learned Sub-Judge and also by the High Court are far from satisfactory. No reason whatsoever has been given to condone the inordinate delay of 3320 days. It is well-considered principle of law that the delay cannot be condoned without assigning any reasonable, satisfactory, sufficient and proper reason. Both the courts have miserably failed to comply and follow the principle laid down by this Court in a catena of cases. We, therefore, have no other option except to set aside the order passed by the Sub-Judge and as affirmed by the High Court. We accordingly set aside both the orders and allow this appeal.”*

10. In view of the settled proposition of law, as laid down by the Hon'ble Apex Court in **Mewa Ram (Deceased by L.Rs) & Ors v. State of Haryana**, AIR 1987 SC 45, **State of Nagaland v. Lipok AO & Ors**, AIR 2005 SC 2191 and **D. Gopinathan Pillai v. State of Kerala & Anr**, AIR 2007 SC 2624, the applicant was under obligation to give cogent and valid reasons for the delay. Time and again it has been held by the Hon'ble Apex Court that if the law provides for a limitation, it is to be enforced even at the risk of hardship to a particular party, as the Judge cannot, on applicable grounds, enlarge the time allowed by law, postpone its operation or introduce exceptions not recognised by law. The law of limitation has to be applied with all its rigour. The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play. We are, therefore, not inclined to accept such a plea as raised by the applicant supra, which is wholly unjustified and cannot furnish any ground for ignoring

delay and laches. (Vide **General Fire and Life Assurance Corporation Ltd v. Janmahomed Abdul Rahim**, *AIR 1941 PC 6*, **P.K.Ramachandran v. State of Kerala & Anr**, *AIR 1998 SC 2276*, **Esha Bhattacharjee v. Raghunathpur Nafar Academy & Ors**, *(2013) 12 SCC 649*, **Basawaraj v. Land Acquisition Officer**, *(2013) 14 SCC 81*, **State of Karnataka & Ors v. S.M.Kotravyqa & Ors** *(1996) 6 SCC 267*, **Jagdish Lal & Ors v. State of Haryana and Ors**, *AIR 1997 SC 2366* and **M/s Rup Diamonds & Ors v. Union of India and Ors**, *AIR 1989 SC 674*.

11. The applicant has utterly failed to explain such a huge delay. In view of the discussion held above, the application for condonation of delay (MA No. 1195 of 2017) has no merit. It deserves to be dismissed and is hereby **dismissed**.

12. Consequently, the Original Application also stands **dismissed**.

**(Air Marshal BBP Sinha)**  
**Member (A)**

**(Justice SVS Rathore)**  
**Member (J)**

Dated : November, 2018  
SB