

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI
(Sl. No. 15)

O.A. No. 04 of 2022

Ex. Hav. Lamkhomang Applicant
By Legal Practitioner for the Applicant : Shri A.R. Tahbildar, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri P.K. Garodia, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>05.04.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Air Marshal Balakrishnan Suresh, Member (A)</u></p> <p>Heard Shri A.R. Tahbildar, Ld. Counsel for the applicant and Shri P.K. Garodia, Ld. Counsel for the respondents.</p> <p>It is submitted by the Ld. Counsel for the applicant that that applicant was enrolled in the Indian Army on 19.06.1982 and was discharged from service with effect from 30.06.2006 after rendering 23 years, 09 months and 06 days of qualifying service under Rule 13(3) Item III (i) of the Army Rules, 1954. Applicant had preferred a claim for the grant of 3rd Financial Upgradation after condoning shortfall of 95 days, but the same was denied vide Records The Assam Regiment letter dated 26.10.2021, a copy whereof has been filed as Annexure 'E' with the Original Application.</p> <p>It is submitted that shortfall of 95 days for grant of 3rd Financial upgradation to the rank of Naib Subedar is condonable in view of law laid down by the Armed Forces Tribunal, Regional Bench, Chennai in Original Application No. 108 of 2016, <i>Ex. Hav. M. Sankarraaj Versus Union of India & Others</i>, decided on 23.11.20217.</p> <p>On the other hand, Ld. Counsel for the respondents submitted that as per para 4 of Integrated Headquarters of Ministry of Defence (Army), AG Branch, New Delhi letter No. B/33513/ACP/AG/PS-2(c) dated 13.06.2011</p>

individual are entitled financial upgradation at intervals 8, 16 and 24 years on continuous regular service. He further submitted that since applicant has completed only 23 years, 09 months and 06 days of regular service, therefore, his claim for the grant of 3rd Financial upgradation has been rightly rejected.

We have gone through the Judgment of Armed Forces Tribunal, Regional Bench, Chennai delivered in the case of **Ex. Hav. M. Sankarraj Versus Union of India & Others**, (Original Application No. 108 of 2016) decided on 23.11.20217, referred to above and are of the view that shortfall of 95 days in grant of 3rd Financial upgradation to the applicant in the rank of Naib Subedar is condonable.

Accordingly, Original Application is **allowed** and respondents are directed to consider the case of the applicant for the grant of 3rd Financial Upgradation to the applicant in the rank of Naib Subedar after condoning the shortfall of 95 days in view of law laid down by the Armed Forces Tribunal, Regional Bench, Chennai in Original Application No. 108 of 2016 within a period of eight weeks from today.

(Air Marshal Balakrishnan Suresh)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/MC/-