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Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI
(SI. No. 26)
O.A. No. 22 of 2020 with M.A. No. 14 of 2020

Ex. Rect. K.L. Ngamshel Anal Applicant
By Legal Practitioner for the Applicant : Shri A.R. Tahbildar, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri B. Kumar, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>06.04.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Air Marshal Balakrishnan Suresh, Member (A)</u></p> <p style="text-align: center;">Heard Shri A.R. Tahbildar, Ld. Counsel for the applicant and Shri B. Kumar, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the grant of disability element of pension to the applicant.</p> <p style="text-align: center;">There is a delay of 35 years, 10 Months and 17 days in filing Original Application.</p> <p style="text-align: center;">Submission of Ld. Counsel for the applicant is that delay in filing Original Application is not deliberate. His further submission is that applicant was not aware about his right to approach the Tribunal/Court challenging rejection of his claim for disability pension. He was under impression that since the authorities have rejected his appeal for disability pension, hence, no other alternative remedy is available to him. The applicant came to know about the Armed Forces Tribunal at Guwahati on 28.05.2019 when attended the Defence Pension Adalat held at Rangapahar. The applicant is undergoing acute financial hardship without any source of income as such he was not in a position to engage an Advocate to defend his case. Thus, his submission is that delay is not deliberate, but for the reasons stated above.</p> <p style="text-align: center;">Ld. Counsel for the respondents has vehemently opposed the prayer and</p>

has submitted that long delay of more than 38 years has not been properly and satisfactorily explained.


Having heard the submissions of Ld. Counsel of both sides 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. Further, the documents relating to ex army person may have been destroyed after mandatory retention period in terms of para 595 of Regulations for the Army, 1987. We could have decided the case, had there been related medical documents pertaining to the applicant and applicant could have been benefitted, but we are unable to impart justice in the absence of requisite medical documents.

In the result, we find that delay is not condonable.

Accordingly, delay condonation application is dismissed.

Original Application is also dismissed being time barred as well as on merit.


(Air Marshal Balakrishnan Suresh)
Member (A)


(Justice Umesh Chandra Srivastava)
Member (J)

AKD/MC/-