

Form No. 4  
{See rule 11(1)}  
ORDER SHEET

ARMED FORCES TRIBUNAL,  
REGIONAL BENCH, GUWAHATI

OA - 21/2022 with MA - 03/2022

Ex. Lnk Repket Chuchang Ao

..... Applicant  
AR Tahbildar  
Legal practitioner for Applicant

-Versus-

UOI & Others.

..... Respondents  
PK Garodia  
Legal practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>CORAM</u></p> <p>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member(J) Hon'ble Air Mshl Balakrishnan Suresh, Member (A)</p> <p><u>ORDER</u></p> <p><u>03.04.2023</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>Instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the grant of service pension to the applicant proportionate to the services rendered by him.</p> <p>There is a delay of 47 years in filing Original Application.</p> <p>Brief stated the applicant was enrolled in the Indian Army on 01.04.1964 and was discharged from service on 16.11.1974 on compassionate ground at his own request under Rule 13(3) Item III (iv) of the Army Rules, 1954.</p> <p>Submission of Ld. Counsel for the applicant is that delay in filing Original Application is not deliberate. His further submission is that due to ignorance, remoteness of his native village etc. he was not aware of any development in respect of grant of pro-rata pension to the PBOR/NCO but while visiting the nearest Zila Sainik Board in February, 2022 he came to know that though he had not completed the qualifying service of 15 years so as to be eligible for regular pension but since he has rendered 10 years and 229 days of meritorious service and in the Army and discharged from service on extreme compassionate ground therefore he is entitled to pro-rata pension. Thus, his submission is that delay is not deliberate, but for the reasons stated above.</p> <p>Ld. Counsel for the respondents has vehemently opposed the prayer and has submitted that long delay of more than 47</p>

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 Mshl Balakrishnan Suresh)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)