

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

ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI

OA – 26/2021

Ex. Hav. KH Ashikho

..... Applicant

A.R. Tahbildar

Legal practitioner for Applicant

-Versus-

UOI & Others.

..... Respondents

Dipanjali Bora

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 Ms. Dipanjali Bora, 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 01.03.1993 and was discharged from service with effect from 28.02.2017 i.e. last day of the previous month (before completion of 24 years of 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 one day, but the same was denied vide Records The Kumaon Regiment dated 18.03.2021 which was communicated to the applicant vide letter dated 06.04.2021 and 02.09.2021, a copy whereof has been filed as Annexure 'F' with the Original Application.</p> <p>It is submitted that shortfall of one day 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. Sankarraj 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 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, 11 months and 30 days of qualifying service, therefore, his claim for the grant of 3rd</p>

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 23.11.2017, referred to above and are of the view that shortfall of one day 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 one day 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 Mshl Balakrishnan Suresh)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)