

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

ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI

OA -33/2022 with MA-20/22

Ex-Sep K Liochem Sangtam

.....

Applicant

Rahul Dhar Tiatemsu

Intisangla Keitzar

Legal practitioners for Applicant

-Versus-

UOI & Others.

..... Respondents

P. Sharma

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 Ms. Tiatemsu Intisangla Keitzar, Ld. Counsel for the applicant and Shri P. Sharma, 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 disability element of pension and issuance of service particulars.</p> <p>There is a delay of 38 years, 11 Months and 18 days in filing Original Application.</p> <p>Submission of Ld. Counsel for the applicant is that delay in filing Original Application is not deliberate. His further submission is that the applicant is resident of remote area and he was not aware about his entitlement. He earns his livelihood hand in mouth. His health condition also had not permitted to travel much and for that reason he was not able to pursue his case forthwith. After relaxation of Lockdown he came to Guwahati on 20.09.2022 and discussed the issues with his Counsel and handed over the brief. 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 38 years has not been properly and satisfactorily explained.</p> <p>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</p> |

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)