

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

ARMED FORCES TRIBUNAL,  
REGIONAL BENCH, GUWAHATI

OA -34/2022 with MA-21/22

Ex-Nk KI Khan Anal

..... 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><u>M.A. No. 21 of 2022</u></p> <p>This Original Application has been filed for the grant of 3<sup>rd</sup> Financial upgradation to the applicant in the rank of Naib Subedar.</p> <p>There is a delay of 02 years, 10 months and 02 days in filing of Original Application.</p> <p>For the reasons stated in affidavit filed in support of delay condonation application, delay in filing the Original Application is <b>condoned</b>. Delay condonation application stands disposed off.</p> <p><u>OA No. 34 of 2022</u></p> <p>It is submitted by the Ld. Counsel for the applicant that that applicant was enrolled in the Indian Army on 17.06.1995 and was discharged from service with effect from 01.07.2019 after rendering 24 years and 14 days of service. Applicant had preferred a claim for the grant of 3<sup>rd</sup> Financial Upgradation after condoning shortfall of 56 days, but the same was denied vide Sena Seva Corps Abhilekh (Dakshin), ASC Records (South), Bangalore letter dated 09.08.2022 on the ground that applicant had got 02 punishment in service and non qualifying period 01 months and 26 days which makes him of his total service lesser than 24 years, a copy whereof has been filed as Annexure 'F' with the Original Application.</p> <p>It is submitted that shortfall of 56 days for grant of 3<sup>rd</sup> Financial upgradation to the rank of Naib Subedar is condonable in view of law laid down by the Armed Forces</p>

Tribunal, Regional Bench, Chennai in Original Application No. 108 of 2016, *Ex. Hav. M. Sankarraj Versus Union of India & Others*, decided on 23.11.20217.

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, 10 months and 04 days of regular service, which is less than 24 years of qualifying service and he was awarded two punishment in his service, therefore, his claim for the grant of 3<sup>rd</sup> 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 56 days in grant of 3<sup>rd</sup> 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 3<sup>rd</sup> Financial Upgradation to the applicant in the rank of Naib Subedar after condoning the shortfall of 56 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 Mshl Balakrishnan Suresh)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)