

**Form No. 4**  
**{See rule 11(1)}**  
**ORDER SHEET**  
**ARMED FORCES TRIBUNAL, REGIONAL BENCH, MUMBAI**

**23. O.A. No. 102 of 2020 with M.A. No. 65 of 2019**

**Ex. Sep. Laxman Ananda Utekar**  
By Legal Practitioner for the Applicant

Applicant

**Union of India & Others**  
By Legal Practitioner for Respondents

**Versus**

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><b><u>08.06.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>Heard Shri Satendra Kumar, Ld. Counsel for the applicant and Shri M. Adhikary, instructed by Mrs. A. Malhotra, Ld. Counsel for the respondents.</p> <p>This Original Application has been filed with delay of 31 years, 11 months and 12 days.</p> <p>Submission of learned counsel for the applicant is that it is a pensionary matter in which bar of limitation is not applicable. His further submission is that delay in filing Original Application is not deliberate, but for the reasons stated in affidavit filed in support of application.</p> <p>Per contra, learned counsel for the respondents submits that explanation of delay offered by the applicant is not sufficient as he has failed to offer day to day explanation of delay.</p> <p>Considering that in pensionary matters bar of limitation is not applicable and grounds stated in affidavit filed in support of delay condonation application are genuine and sufficient, delay is liable to be condoned.</p> <p>Accordingly, delay in filing application is condoned. Delay condonation application stands decided accordingly.</p> <p><b><u>O.A. No. 102 of 2020</u></b></p> <p>Heard Shri Satendra Kumar, Ld. Counsel for the applicant and Shri M. Adhikary, instructed by Mrs. A. Malhotra, Ld. Counsel for the respondents.</p> <p>Applicant has filed this Original Application for the grant of disability pension on the premise that it has been wrongly denied by the respondents.</p> <p>During the course of hearing, Ld. Counsel for the applicant submitted that in reply/Counter Affidavit filed by the respondents they have stated that applicant is not entitled to disability pension for the disabilities suffered by him during service. However, they have filed documents that is at page Nos. 31 and 35 along with reply/Counter Affidavit wherein they have stated that disability pension has been allowed to the applicant with effect from 05.10.1986 and PPO has been issued accordingly. The submission of Ld. Counsel for the applicant is that this contradictory plea taken by the respondents in the reply/Counter Affidavit is against their own documents. He further submitted that despite there being documents filed by the respondents along with reply/Counter Affidavit applicant has not yet received single</p>

penny in his account towards disability pension.

We have gone through the reply/Counter Affidavit as well as the documents filed therewith and we find that at page No. 31 the respondents have clearly stated that applicant Laxman Ananda Utekar has been allowed disability pension @Rs.237/- only with effect from 05.10.1986 and it is for life. At page No. 35 they have revised the disability element @Rs.4145/- per month with effect from 01.07.2009 and service element @Rs.4498/- per month with effect from 24.09.2012. This shows that respondents have wrongly stated in the reply/Counter Affidavit that applicant is not eligible for the grant of disability pension, rather the respondents documents itself prove that he is not only eligible for the grant of disability element, but same has been granted by the respondents.

Now the question is whether applicant has not received single penny towards disability pension as has been said by him. In view of the plea taken by the respondents in the reply/Counter Affidavit this seems to be prima facie correct, otherwise respondents would not take contrary plea in the reply/Counter Affidavit regarding grant of disability pension. Be it as it may, respondents are directed to issue a fresh Corrigendum PPO to the applicant for the grant of disability pension with effect from the date of entitlement and to pay entire arrears, if not paid, within four months from today failing which they shall be liable to pay interest on arrears @8% per annum from the date of entitlement.

With the above, the Original Application stands **disposed off**.

*Sd/-*

(Vice Admiral ~~Abhay~~ Raghunath Karve)  
Member (A)

AKD/Mhi/-

*Sd/-*

(Justice Umesh Chandra Srivastava)  
Member (J)