

**COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

21.

OA 2008/2019 WITH MA 2932/2019 AND MA 32/2023

Ex Sgt Manoj Kumar **Applicant**
VERSUS
Union of India and Ors. **Respondents**

For Applicant : None
For Respondents : Mr. Sagar Mehlawat, Proxy for
Mr. Harish V Shankar, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN P.M. HARIZ, MEMBER (A)

ORDER
07.02.2023

MA 32/2023

The matter is listed for hearing, however, placed on record is MA 32/2023 filed on behalf of the respondents seeking the waiver of the closure of the right of the respondents to file the counter affidavit which was closed vide order dated 15.11.2022.

It has been submitted in the application to the effect:

- 1. That the present O.A No. 2008/2019 was filed by the Applicant for conducting his Re-survey Medical Board for a disability which was not there at the time of his discharge.*
- 2. That the matter was being adjourned en-bloc since 29.09.2020 i.e the date of last hearing. Thereafter the matter suddenly got listed on 15.11.2022.*

7. That it is requested that the Hon'ble Tribunal in the interest of justice waive the closed right of the Respondents to file the Counter – Affidavit in the instant matter and take the accompanying Counter – Affidavit on record. The Counter–Affidavit is annexed herewith and marked as ANNEXURE M – 1.

A perusal of the record indicates that notice of the OA 2008/2019 was issued on 05.12.2019 and time was sought on behalf of the respondents and was granted in terms of orders dated 05.12.2019, 03.03.2020, 04.08.2020, and the matter was placed before the Bench of the Principal Registrar in terms of proceedings dated 29.09.2020 thereafter the matter is indicated to have been re-notified vide en bloc dates in terms of circulars dated 26.10.2020, 29.01.2021, 13.05.2021, 23.07.2021, 01.10.2021, 03.12.2021, 11.02.2022, 31.03.2022, 08.07.2022, 08.09.2022 with it having been specifically directed again vide order dated 23.09.2022 that the respondents may file their counter affidavit before the next date which was so directed when an application MA 2838/2022 filed by the applicant seeking an early hearing had been taken up and disposed of accordingly. Apparently there is no ground to grant the prayer made by the respondents now vide the application MA 32/2023

seeking waiver of the closure of the right of the respondents to file the counter affidavit. Thus the application is dismissed.

In the interest of justice, however, either side is permitted to file written submissions not exceeding three pages along with copies sought to be relied upon with the same being exchanged *inter se* before the date of hearing and be filed within a period of one week.

The matter be re-notified for final hearing on **24.02.2023**.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT GEN P.M. HARIZ)
MEMBER (A)

NEHA/POOJA

