

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

7.

OA 409/2016 with MA 259/2016

Hav Jagdish Rai (Retd)

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner : Mr. K. Ramesh , Advocate

For respondents : Mr. Shyam Narayan, Advocate

CORAM:

HON'BLE MR. JUSTICE S.S. SATHEESACHANDRAN, MEMBER

HON'BLE LT. GEN. SANJIV LANGER, MEMBER

ORDER

28.04.2016

MA 259/2016

The applicant has filed the above OA for issue of directions to the respondents to grant him disability pension. The application is accompanied by MA 259/2016 to condone the delay of 17 years, 4 months and 5 days.

2. Heard the learned counsel for the parties and perused the application for condonation of delay. Having regard to the settled position that claim for pension is a continuous cause of action and relying on the judgment of the Apex Court ***Union of India and Others Vs. Tarsem Singh (2008) 8 SCC 648*** we hold that the delay involved required to be condoned with rider in case the petitioner succeeds, the arrears of pension to assess the disability will be restricted to a period of three years prior to the filing of the application subject to the filing of application. Delay is condoned. The MA stands allowed.

OA 409/2016

Admit. Issue notice.

2. Notice is taken by learned counsel for the respondents, who seeks time to file counter affidavit. Counter affidavit be filed within a period of

four weeks. Rejoinder affidavit, if any, be filed within a further period of two weeks.

3. List the matter on **25.07.2016**.

(**S.S. SATHEESACHANDRAN**)
MEMBER

(**SANJIV LANGER**)
MEMBER