

**COURT No.2, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

42.

OA 528/2017 with MA 450/2017

Ex Sigmn Sushil Kumar Goswami Applicant
Versus
UOI &Ors. Respondents

For petitioner : Mr. VS Kadian, Advocate
For respondents : Dr. Vijender Mehndiyan, Advocate

CORAM:

HON'BLE MR. JUSTICE B.P. KATAKEY, MEMBER
HON'BLE AIR MARSHAL D.C. KUMARIA, MEMBER

ORDER
06.04.2017

MA 450/2017

1. Heard Shri VS Kadian, learned counsel for the applicant as well as Dr. Vijendra Mahndiyan, learned counsel appearing for the respondents.
2. The applicant has filed this MA praying for condonation of delay in filing the OA, which has been filed claiming the disability element of the pension contending, inter alia, that since the claim for disability pension is based on a continuing cause of action, the delay needs to be condoned.
3. The prayer made by the applicant for condonation of delay is opposed by the learned counsel for the respondents contending that since the applicant has failed to demonstrate any sufficient cause in not filing the OA in time, delay may not be condoned.
4. The claim of the applicant in the OA being for grant of disability element of the pension, which is based on a continuing cause of action, we dispose of the MA with the observation that if the applicant is found to be entitled to the relief claimed in the OA, arrear may be restricted for a period of three years preceding the date of filing of the OA.

5. MA is, accordingly, disposed of.

OA 528/2017

1. Heard Shri VS Kadian, learned counsel for the applicant.
2. OA is admitted for hearing.
3. Since the respondents are represented by the learned counsel, no fresh notice need be issued.
4. The respondents within eight weeks from now shall file the counter.
5. The applicant may file the rejoinder, if any, within two weeks thereafter.
6. Place it before the Principal Registrar on **11.05.2017** for completion of pleadings.

(B.P.KATAKEY)
MEMBER (J)

(D.C. KUMARIA)
MEMBER (A)