

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

23.

MA 1026/2020 & MA 1027/2020 in OA 1372/2017

Lt. Col Satwant Singh (Retd) : Applicant

Versus

Union of India and Others : Respondents

For Applicant : Mr. Adarsh Kumar Tiwari, Advocate

For Respondent : Mr. Prabodh Kumar, Advocate

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE LT. GEN. PHILIP CAMPOSE, MEMBER (A)

ORDER

28.07.2020

MA 1026/2020 & MA 1027/2020

An application under Rule 16(2) of the AFT (Procedure) Rules, 2008 has been moved by the applicant for restoration of the OA which was dismissed for non-prosecution on 15th March 2019.

Another application under Section 5 of the Limitation Act and Section 151 of CPC has been moved for condonation of delay in filing the above application.

Issue Notice to the respondents. Mr. Prabodh Kumar, accepts notice on behalf of the respondents.

Counsel for the respondents submits that no sufficient grounds have been assigned by the applicant for non-appearance of the applicant on the date fixed. Moreover, there is delay of about one year in filing the application.

There is force in the submission of learned counsel for the respondents as it is stated in the application that the counsel did not note the date in his diary at the relevant time and on subsequent day he forgot to note the same.. This shows negligence and carelessness on the part of the counsel. Moreover, even the applicant was not vigilant. It is not disclosed in the application as to when applicant inquired about the fate of the case from the counsel. As such, no sufficient grounds have been assigned for non appearance of the applicant or the counsel on the date fixed. However, in the interest of justice, the delay in filing the application is condoned and the application is allowed subject to Rs. 5000/- as cost which be deposited with Armed Forces Tribunal Bar Association within two weeks. Subject to deposit of the cost, the OA will be restored to its original number. Both the MAs stand disposed off.

OA 1372/2017

List for hearing on 17th November 2020.

(JUSTICE MS. SUNITA GUPTA)
MEMBER (J)

(LT. GEN. PHILIP CAMPOSE)
MEMBER (A)

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