

COURT NO. 1, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

14.

OA 2408/2023 WITH MA 3418/2023

Ex AC/UT Sunil Choudhary

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Shri N.K. Mishra, Advocate

For Respondents : Shri R.S. Chillar, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C P MOHANTY, MEMBER (A)

ORDER
23.08.2023

MA 3418/2023

There being delay in filing of OA, MA 3418/2023 has been filed seeking condonation of delay. Considering the fact that grant of disability and disability pension arising thereof is a continuous right and in view of law laid in the case of **Union of India and others v. Tarsem Singh** (2008) 8 SCC 648, the delay in filing the application is condoned.

2. MA stands disposed of.

OA 2408/2023

3. In accordance to the policy laid down after the rejection of the claim for grant of disability element vide letter dated on 26th September, 2022, the applicant has not exhausted to departmental remedy of appeal. Learned

counsel for the applicant, however, invites our attention to the legal notice cum representation filed on 18th December, 2022. In our considered view, the departmental remedy of appeal has to be availed of by the individual himself and merely because the counsel has sent a legal notice, we do not deem it appropriate to hold that the remedy of appeal has been exhausted.

4. Considering the fact, the appeal has not been filed by the applicant, we dispose of the matter with a direction to the applicant to submit an appeal within a period of one month and considering the medical condition of the applicant in this case, the respondents are directed to decide the same by way of a speaking order within a period 45 days. If still aggrieved, the applicant may re-agitate the matter in accordance with law.

5. OA stands disposed of.

6. A copy of this order be provided '**DASTI**' to learned counsel for both the parties.

[RAJENDRA MENON]
CHAIRPERSON

[C. P. MOHANTY]
MEMBER (A)