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

1.

OA1868/2025 WITH MA 2673/2025

Nb Sub Sashidharan K (Retd) ..... Applicant
Versus
Union of India & Ors. ..... Respondents

For Applicant : Mr. Jitendra Kr Deo, Advocate
For Respondents : Mr. Kumar Gaurav, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
02.09.2025

The applicant has approached this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, seeking grant of disability element of pension.

2. The impugned order is a letter dated 28.12.2024 (Annexure A1) which was sent by the Departmental Authorities to Mr. Jitendra Kumar Deo, learned counsel for the applicant in response to a legal notice issued by the counsel on 25.11.2024.

3. In the letter dated 28.12.2024, it was stated that the applicant was discharged from service on 30.09.2004 under Army Rule 13(3)(I)(i)(a) of the Army Rules, 1954. At the time of discharge, the Release Medical Board had assessed the applicant to be suffering from Schizophrenia (F20) with a

disability percentage of 15-19% for life and found the disability neither attributable to nor aggravated by military service.

4. It was also intimated that the applicant's claim for disability pension was rejected by the Competent Authority on 22.12.2004 and the rejection was communicated to the applicant on 03.01.2005 along with advice to file an appeal within six months if dissatisfied.

5. The applicant filed a first appeal on 31.01.2005 which was forwarded to the Competent Authority. The appeal was rejected by the Competent Authority on 01.06.2006 and the same was communicated to the applicant on 30.06.2006 advising him to file a second appeal within six months.

6. However, no further action was taken by the applicant at that time. It was only after a gap of more than 18 years that the applicant sent a legal notice dated 25.11.2024 and upon rejection of the same on 28.12.2024, he approached this Tribunal on 23.05.2025 more than six months after the rejection.

7. As there was a delay of more than 18 years in invoking the jurisdiction of this Tribunal, the applicant has filed an application for condonation of delay under Section 22(2) of the Armed Forces Tribunal Act, 2007. Section 22(2) of the

Act empowers this Tribunal to condone delays in filing an application beyond the prescribed period of limitation as stipulated under Section 22(1).

8. As per the statutory provision, an application should ordinarily be filed within six months from the date of accrual of the cause of action. In the present case, the cause of action accrued to the applicant on 30.06.2006, when his second appeal was rejected. Therefore, the application under Section 14 ought to have been filed within six months thereafter.

9. However, since the Armed Forces Tribunal was not in existence in 2006, it having been established only upon the coming into force of the Armed Forces Tribunal Act, 2007, w.e.f. 15.06.2008 by virtue of Section 22(2)(c) read with Section 22(2), the applicant was required to file the application within a period of three years from the date of establishment of the Tribunal. Further, if sufficient cause is shown, the Tribunal has the discretion to condone the delay.

10. The applicant has filed MA 2673/2025 under Section 22(2), seeking condonation of a delay of 7,358 days approximately 18 years. A perusal of MA 2673/2025 reveals that in Para 1 of this MA, the applicant mentions having filed the OA claiming disability pension. In Para 2, he refers to the

requirement under Section 22 of the AFT Act, 2007, and admits that he was retired after completing 28 years and 6 days of service. He states that disability pension was not granted to him and that he made a first appeal on 31.01.2005 and a second appeal on 07.12.2023. As no reply was received, he seeks condonation of delay. Thereafter, he refers to various judgments of the Hon'ble Supreme Court and the High Courts regarding condonation of delay.

11. However, no reasonable cause for the delay has been shown nor has any justification been provided. Even though, in MA 2673/2025 seeking condonation of delay, the applicant states that after rejection of his first appeal on 30.01.2005, he preferred a second appeal on 07.12.2023, neither is any such second appeal available on record nor has any copy thereof been filed. The applicant has only filed a legal notice sent by his counsel dated 25.11.2024 (Annexure A3), and the impugned order dated 28.12.2004 (Annexure A1). Even in the body of this OA, with regard to the details of remedies exhausted, the applicant only states that he preferred a legal notice against the rejection of disability pension on 28.12.2004 which has been rejected by the EME Records.

12. The miscellaneous application for condonation of delay under Section 22(2) does not meet the requirement of providing a satisfactory explanation or sufficient cause for not making the application within the prescribed limitation period. The principle in this regard is analogous to the provisions of Section 5 of the Limitation Act. When the matter came up for hearing on admission on 02.07.2025 all these factors were noted and in Para 3 of the order the applicant was granted four weeks' time to file a fresh application for condonation of delay. Para 3 of the order dated 02.07.2025 reads as under:

> *"3. In our considered view, the principle of explaining every day of delay as contemplated under Section 5 of the Limitation Act is applicable while considering an application for condonation of delay under Section 22(2) of the AFT Act, 2007, and without explaining the same, the application under Section 22(2) of the AFT Act, 2007 is not maintainable. Therefore, the applicant is directed to file a separate application under Section 22(2) of the AFT Act, 2007, meeting the requirement of not only Section 22 of the AFT Act, 2007, but also the principles laid down by the Hon'ble Supreme Court while interpreting the provisions of Section 5 of the Limitation Act. Four weeks' time is granted to the applicant to file a fresh application for condonation of delay."*

13. The matter was thereafter listed for hearing on 06.08.2025. However, as the Division Bench was not available on that date, the case was adjourned to today.

14. Today, when the matter was taken up and when learned counsel for the applicant was asked why he had not complied with the order dated 02.07.2025 even after the

lapse of more than two months and why the delay in filing the application invoking the jurisdiction of this Tribunal had not been explained in accordance with the requirements of Section 22(2) and Section 5 of the Limitation Act, the learned counsel for the applicant submitted that since a legal notice was sent on 25.11.2024 and was rejected by the competent authority on 28.12.2024, there is no delay.

15. However, when specifically asked what action was taken by the applicant from 30.06.2006 to 25.11.2024, the date of submission of the legal notice, the learned counsel was unable to provide any explanation. He also did not seek any further time to file a proper application for condonation of delay and instead stated that he had nothing more to submit.

16. As the application for condonation of delay does not contain any reasonable explanation or sufficient cause for the delay of about 18 years (i.e., 7358 days), as admitted by the applicant himself in the application for condonation of delay, we have no option but to dismiss this OA.

17. However, in case the applicant chooses to file a proper OA along with a proper application for condonation of delay this order shall not come in the way of the applicant in doing

so or in prosecuting his claim afresh in accordance with law after filing a proper application for condonation of delay.

18. For the present, the OA along with the MA stands dismissed.

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

/PS/
OA 1868/2025