

Form No. 4  
{See rule 11(1)}  
ORDER SHEET  
ARMED FORCES TRIBUNAL, REGIONAL BENCH, MUMBAI  
E-Court

21. O.A. No. 78 of 2018 with M.A. No. 147 of 2018

**Abdul Lateef**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><b><u>26.07.2022</u></b>  <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b>  <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>On the case being taken up for hearing no one is present on behalf of the applicant nor is there any mentioned to pass over the case.</p> <p>Mr. Rishi Ashok, Advocate instructed by Mr. Ashok, Ld. Counsel for the respondents.</p> <p>The Original Application has been filed with delay of more than 26 years.</p> <p>Being a pensionary matter in which cause of action accrues every month, delay is <b>condoned</b>. Delay condonation application stands disposed off.</p> <p><b><u>O.A. No. 78 of 2018</u></b></p> <p>Heard Ld. Counsel for the respondents.</p> <p>Original Application is <b>dismissed on merit</b>.</p> <p>For order, see our Judgment passed on separate sheets.</p> <p>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.</p> <p style="text-align: center;"> <b>(Vice Admiral Abhay Raghunath Karve)</b>      <b>(Justice Umesh Chandra Srivastava)</b>  <b>Member (A)</b>    <b>Member (J)</b> </p> <p>AKD/SB/-</p>

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, MUMBAI**

**Original Application No. 78 of 2018**

Tuesday, this the 26<sup>th</sup> day of July, 2022

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

Mr. Abdul Lateef  
 R/o Village – Kamptee Road, Yashodhara Chowk,  
 Post – Uppalwadi, Tah – Nagpur,  
 Distt – Nagpur

.... **Applicant**

Ld. Counsel for the Applicant : **Shri Sunil Lacharwar**, Advocate  
 (Not present)

Versus

1. The Union of India, Represented by the Secretary, Govt. of India, Ministry of Defence, New Delhi – 11.
2. The Director, Directorate of Air Veterans, Subroto Park, New Delhi-10.
3. The Air officer Commanding Air Force Record Office, Subroto Park, New Delhi-10.

... **Respondents**

Ld. Counsel for the Respondents : **Mr. Rishi Ashok**, holding brief of  
**Shri B.K. Ashok**  
 Central Govt Counsel

**ORDER**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-

- “1. Grant pension to the applicant, thereby direct the Respondent Authority to release/grant pension to the applicant since 1991 by condoning the short fall period for qualifying service for getting pension, in the interest of justice.



qualifying service for getting pension, in the interest of justice.

2. Direct the respondents to release/grant arrears of pension since 1991, in the interest of justice.
3. Allow the instant application, in the interest of justice."

2. Brief facts of the case are that the applicant was enrolled in the Indian Air Force on 01.02.1978 and was discharged from service w.e.f. 16.05.1991 under the clause "SERVICE NO LONGER REQUIRED" after completion of 13 years and 38 days of qualifying regular service (excluding 67 days of non qualifying period due to absent without leave). The applicant after discharge from service made correspondence with the respondent authorities to grant pension but nothing in this regard has been done by the respondents. Since the applicant has served 13 years and 105 days including 67 days of NQS, against 15 years pensionable service, applicant was not granted any kind of pension as per statutory provisions. Being aggrieved, the applicant has filed the present Original Application to grant him service pension after condoning period of short fall for pensionable service.

3. Applicant pleaded that he was enrolled in the Indian Air Force on 01.01.1978 and was discharged from service on 16.05.1991 after serving 13 years and 105 days in the Department. At the time of discharge from service he was paid gratuity but he was deprived from getting service pension. After discharge from service he wrote to the respondent authorities to grant pension but nothing in this regard has

been done by the respondents. In August, 2014, he made an appeal to the respondent authority to grant pension which was rejected by the respondents stating that he is ineligible for pension as his total service is less than 15 years of pensionable service.

4. Applicant further pleaded that in terms of para 136 of Pension Regulations for the Air Force, 1961, he is entitled to get pension as he has rendered 13 years and 105 days continuous service in the respondent's department. The respondents have not taken into consideration the law laid down by the Hon'ble High Court as well as the Hon'ble Supreme Court of India and merely on the basis of wrong surmises, rejected his claim and deprived him from getting pension which is not permissible in law. He pleaded for grant of service pension.

5. On the other hand, Ld. Counsel for the respondents submitted that applicant was enrolled in the Indian Air Force on 01.02.1978 and was discharged from service w.e.f. 16.05.1991 under the clause "SERVICE NO LONGER REQUIRED" after completion of 13 years and 38 days of qualifying regular service (excluding 67 days of non qualifying period due to absence without leave). The applicant was also not transferred to Regular Air Force Reserve. He further submitted that as per Regulation 121 of Pension Regulations for the Air Force, 1961 (Part-1), minimum qualifying regular service to earn service pension is 15 years and in terms of Regulations 136 (a), prescribed combined colour and reserve qualifying service to earn



reservist pension is 15 years. An individual who has minimum qualifying regular service of 5 years but less than 15 years is eligible for service gratuity in terms of Regulation 127 & 128, which has already been paid to the applicant. Since the applicant has a total of 13 years and 105 days of service including 67 days of NQS against 15 years pensionable service, applicant was not granted any kind of pension as per statutory provisions. The applicant submitted a representation dated 20.07.2014 for grant of pension which was rejected by the competent authority vide order dated 05.08.2014.

6. Learned counsel for the respondents further submitted that as per Regulations 114, read in conjunction with Govt. of India, Ministry of Defence letter dated 14.08.2001, condonation of deficiency in qualifying service for a period upto 12 months has been allowed for grant of service/reservist pension. Since the applicant has served only 13 years and 38 days of qualifying service (excluding 67 days of NQS), he is deficient of more than 1 year to earn service/reservist pension which is beyond rule, hence, shortfall to earn service pension cannot be condoned beyond 1 year. Therefore, applicant is not entitled to service/reservist pension. The applicant has already been paid amount of gratuity, as entitled to him. Thus, Original Application lacks substance and is liable to be dismissed.

7. We have heard learned counsel for the respondents and perused the material placed on record.

8. We find that applicant has been discharged from service after serving 13 years and 38 days of qualifying service under the clause 'Service No Longer Required'. The applicant has been summarily tried on four occasions and has been awarded four red ink entry punishments of 'Severe Reprimand'. Therefore, discharge order of the applicant was issued by the respondents as per rules and policy on the subject.

9. In substance, we find that applicant was habitual offender and indisciplined soldier. During his service, the applicant was awarded four red ink entry punishments for overstaying of leave/absent without leave which shows his irresponsible attitude and indisciplined nature towards his duty. Even after giving warnings/counselling, the applicant did not show any improvement in his personal/military discipline and conduct. There being no other option, the applicant was discharged from service as 'Service No Longer Required' after due procedure as per rules on the subject. Since the applicant has served only 13 years and 105 days of service against 15 years minimum qualifying service to earn service pension, the applicant is not entitled the relief prayed in Original Application to grant him service pension after condoning period of shortfall treating his 15 years pensionable service.

10. In view of the above, we do not find any irregularity or illegality in discharging the applicant from service and denying service pension hence, there is no violation of any rules and regulations. The O.A. is



devoid of merit and deserves to be dismissed. It is accordingly  
**dismissed.**

11. No order as to costs.

12. Pending Misc. Application(s), if any, shall stand disposed of.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)  
Member (A) Member (J)

Dated: 26 July, 2022  
SB