FORM NO – 4

(SEE RULE 11 (1)

IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORDER SHEET

APPLICATION No : O A 122/2012

APPLICANT (S)	Lt. Col (Retd.) Raghuwar Dayal Thakur
RESPONDENT (S)	Union of India & 2 Ors
Legal Practitioner of applicant	Legal Practitioner for Respondent (s)
Mr. Barun Kr. Chaudhary	Mr. D.K.Mukherjee

NOTES OF THE REGISTRY	**ORDERS OF THE TRIBUNAL** Order Sl. No. : Dated : 18.03.2014
	Mr. Barun Kr. Chaudhury, ld. adv. for the applicant is present. The applicant is also present in person. Mr. D.K.Mukherjee, ld. adv. appears on behalf of the respondents. Lt. Col. A.Chaudhary, OIC, Legal Cell, of the office of DGAFMS is present in compliance with our order dt. 9.12.14. At this stage, before the case could be taken up for hearing. Mr. D.K.Mukehrjee, ld. adv. for the respondents draws our attention to Annexure 2 Series at pages 18-19 of the OA. As per the ibid documents, the applicant had applied for regular commission in August 2000 and the same was rejected, as has been communicated by the DGFMS's letter dt. 14.5.01 that the applicant's case was not considered for regular commission because he was overaged. Such endorsement is at para 1(h) of the ibid letter dt. 14.5.01. Therefore, according to Mr. Mukherjee, it was well within the knowledge of the applicant in the year 2000 as well as in 2001 that so far as the age criteria is concerned, he was ineligible. Therefore, his grievance should have occurred at least on 14.5.01, if not in the year 2000. Even then the applicant has filed the instant applicant after a

prolonged delay of 11 years on 3.12.12. Such delay has not been explained in the OA. Mr. Mukherjee further observes that there is no averments in the OA as to what action the applicant had taken when his permanent commission was rejected on being over-aged in 2001.

Having heard the ld. advocates for both sides, we observe that the applicant must explain the delay through a Misc. Application u/s 22 of the AFT Act, 2007 before the main application can be taken up for hearing.

That apart, we also notice certain defects in the cause title, viz. UOI has been sought to be represented by the Chief of Army Staff and not through the Defence Secretary, which is not correct.

Mr. Chaudhuary undertakes to file the MA within four weeks as also to take step to amend the cause title appropriately. Upon receipt of the copy of the MA, Mr. Mukherjee will also be at liberty to file his objection to such condonation application within two weeks thereafter.

Let the MA be fixed for admission hearing on 5.6.14. For the present OA 122/2012 be taken off the hearing list.

Further presence of Lt. Col. A.Chaudhary, OIC, Legal Cell, of the office of DGAFMS is dispensed with for the present.

Let a plain copy of the order duly countersigned by the Tribunal Officer be furnished to both sides on observing due formalities.

(LT. GEN K.P.D.SAMANTA)
MEMBER(A)

(JUSTICE RAGHUNATH RAY)
MEMBER(J)