

**FORM NO – 4**

**(SEE RULE 11 (1))**

**IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA**

**ORDER SHEET**

**APPLICATION No : O.A. 54 of 2012**

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|---------------------------------|---------------------------------------|
| APPLICANT (S)                   | Birendra Sharma                       |
| RESPONDENT (S)                  | <u>Union of India &amp; 3 Ors</u>     |
| Legal Practitioner of applicant | Legal Practitioner for Respondent (s) |
| Mr. Suman Basu                  | Mr. Mintu Kumar Goswami               |

| NOTES OF THE REGISTRY | <b><u>ORDERS OF THE TRIBUNAL</u></b>  |
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|                       | Order Sl. No. : <u>17</u> Dated : 04.09.2013  |
|                       | <p>Mr. Suman Basu, Id. adv. for the appellant is present Mr. Mintu Kr. Goswami, Id. adv. appears on behalf of the respondents. The appeal/application is taken up for hearing.</p> <p>The original documents as asked for have been provided by the respondents. They are –</p> <ol style="list-style-type: none"><li>The report of Dy. JAG on the SCM (JAG Review Report) dt. 16.5.05.</li><li>The court of inquiry that was held on 6.7.04 at ASC Centre, Gaya to investigate the circumstances under which the appellant was absent without leave from 5.6.04 and subsequently declared as deserter.</li><li>Copy of the court of inquiry dt. 10.2.93 which was held to investigate into the circumstances under which the appellant deserted on 10.12.92.</li><li>The original GCM proceeding, which was produced earlier are already held with the record.</li></ol> <p>We, however, note from the court of inquiry dt. 10.2.93 that in para 23 of the finding of the ibid court of inquiry,</p> |

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|  | <p>reference has been made to another court of inquiry which was held on 11.1.93 as per which the appellant was declared a deserter. However, the record of ibid court of inquiry dt. 11.1.93 has not yet been submitted by the respondents. In fact, this is the first court of inquiry in which the appellant was declared as a deserter with arms. It is necessary for the respondents to produce this court of inquiry records by the next date.</p> <p>As prayed by Mr. Goswami, such production will be caused within four weeks. Let the matter appear for hearing on 21.10.13, as prayed for by both parties.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div data-bbox="617 969 932 1041" style="text-align: center;"> <p>(LT. GEN K.P.D.SAMANTA)<br/>MEMBER(A)</p> </div> <div data-bbox="1016 969 1351 1037" style="text-align: center;"> <p>(JUSTICE RAGHUNATH RAY)<br/>MEMBER(J)</p> </div> </div> |
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