

FORM NO – 4

(SEE RULE 11 (1))

IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORDER SHEET

APPLICATION No : T.A. 44 of 2012

APPLICANT (S)	Anil Kumar Mishra
RESPONDENT (S)	<u>Union of India & 4 Ors</u>
Legal Practitioner of applicant	Legal Practitioner for Respondent (s)
Mrs. Maitrayee Trivedi Dasupta/ Mr. Gopal Krishna Maiti	Mr. Anup Kumar Biswas

NOTES OF THE REGISTRY	<u>ORDERS OF THE TRIBUNAL</u> Order Sl. No. : 8 Dated : 23.09.2013
	<p>Mrs. Maitrayee Trivedi Dasgupta, Id. adv. leading Mr. Gopal Krishna Maiti, Id. adv. appears on behalf of the applicant. Mr. Anup Kumar Biswas, Id. adv. appears on behalf of the respondents.</p> <p>At the outset, Mr. Biswas draws our attention to annexure-B to the counter affidavit that was filed in the Hon'ble Jharkhand High Court in response to the ibid writ petition No. WP(S) 2270 of 2008. We, however, find that no annexures to the counter affidavit were submitted before the 2nd Judge when a copy of the counter affidavit was filed by Mr. Biswas, as is evident from our order dt. 11.2.13. We notice that Mr. Biswas has taken no steps to file any of the annexures to the counter affidavit filed in connection of this writ petition, that has been referred to on this date. We find such attitude by the Id. adv. for the respondents very improper. We make it very clear that unless the brief for the Id. Second Judge is complete in all respects, it will be very difficult to adjudicate the matter or even to understand the</p>

	<p>arguments put across by both sides. Such practice has been often noticed on behalf of the respondents in the past which has been pointed out to the OIC, Legal Cell, HQ Bengal Area earlier. Lt. Col. Anil Chandra, OIC, Legal Cell, HQ, Bengal Area being present today is directed to ensure that 2nd Judge's briefs are always complete with regard to documents and annexures that are required to be filed in all judicial matters in future.</p> <p>At this stage, both the Id. advocates as also Lt. Col. Anil Chandra tendered their unqualified apology for the unintentional lapse and assured that they would be cautious in future to avoid such lapse. The apology is accepted.</p> <p>However, having gone through the entire matter, we direct the respondents to answer to the following queries for proper adjudication of the matter :-</p> <ol style="list-style-type: none"> a) The respondents shall file documentary evidence like Part II Order or entry into the dossier etc. to authenticate that the applicant was first married to Nagina Devi. In this case it is important since based on acceptance of this fact, maintenance was allowed in favour of Nagina Devi. b) The inquiry reports carried out by the respondents upon which they have depended to make firstly, the award for maintenance to Nagina Devi, and secondly, to dismiss the applicant for plural marriage have not been found attached with the brief. These inquiry reports are essential documents and they must be submitted by the respondents by next date. c) We do not find copies of show cause notice or reply thereof firstly, when the maintenance was awarded to Nagina Devi and secondly, when the applicant was dismissed from service for plural marriage. Such show cause notices are mandatory as per law. Therefore, the respondents are directed to cause their production
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including the reply as submitted by the applicant to such show cause notices. In case, the ld. adv. for the applicant has copies of such show cause notices, she should also submit the same by the next date.

The respondents are directed to take action as per directions above within six weeks from this day. However, the legible copies of the counter affidavit along with all annexures shall be filed within two weeks from this date.

Ld. adv. for the applicant has filed English translation of annexure Nos. 11, 12, 14, 15 and 18 which may be kept with the record.

The hearing of the matter is adjourned to 8.1.14.

Let a plain copy of this order, duly countersigned by the Tribunal Officer be furnished to both parties on observance of due formalities.

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

(JUSTICE RAGHUNATH RAY)
MEMBER(J)