

FORM NO – 4

(SEE RULE 11 (1))

IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORDER SHEET

C.A No : 9 of 2013 (OA 34/2013)

APPLICANT (S)

Lt. Col. Mukul Dev

RESPONDENT (S)

Shri R.K.Mathur

Legal Practitioner of applicant

Legal Practitioner for Respondent (s)

Mr. Rajiv Mangalik

Mr. Sudipto Panda

NOTES OF THE REGISTRY	<u>ORDERS OF THE TRIBUNAL</u> Order Sl. No. : 5 Dated : 02.12.2013
	<p>Mr. Rajiv Mangalik, Id. adv. for the applicant is present. Mr. Sudipto Panda, Id. adv. is present on behalf of the alleged contemnor being assisted by Lt. Col. Anil Chandra, OIC, Legal Cell, HQ. Bengal Area. Mr. Praveen Kumar, Director, AG-I, MoD is also present on behalf of Secretary, MoD, Mr. R.K.Mathur, who is the sole alleged contemnor in this case. As per direction contained in our order dt. 25.10.13, Major Gen. Raman Dhawan, VSM, ADG (DV) along with Col. S. Chawla, SO (A) from DV Directorate-4B Army HQ is also present.</p> <p>Mr. Praveen Kumar prays for four weeks more time to comply with the order of this Tribunal dt. 15.5.13 passed in OA 34 of 2013. He explains the reasons for seeking such time to dispose of the statutory complaint. To that effect, he has also submitted the case file which was perused by us and day to day activities on file, as have been recorded, have been noted by us. We are quite convinced that the alleged contemnor and his staff in the MoD are taking adequate steps with enough urgency to dispose of the matter. Therefore, the adjournment, as prayed for by Mr. Praveen Kumar may be granted.</p>

We, however, observe that the delay has been caused in implementation of the order of this Tribunal primarily because the DV Directorate of Army HQ took too long a time, firstly to provide the court order to the MOD and secondly to process the concerned file at the level of Army HQ. We do not appreciate such delay nor are we convinced that enough urgent steps were taken by the Army HQ, especially by the DV Directorate to deal with the case of a serving officer. We are of the view, that in future such cases relating to serving officers must be dealt far more expeditiously because the outcome of such cases would have a direct impact on their career prospects. The DV Directorate must be more sensitive to such cases in future. We are also of the view that procedural delay in communication of orders of this Tribunal to the concerned respondents must be reviewed both by the OIC, Legal Cell, HQ Bengal Area and by AG's Branch under whom the DV Directorate as well as the JAG Branch function. As of now, court cases relating to discipline and vigilance, we find that DV directorate is not taking appropriate step to process the matter promptly. This position needs to be reviewed so that the respondents are communicated with the court's orders far more promptly than what is being done now. In this case in the initial phase after the order was passed on 15.5.13 was the main period of delay, which was avoidable. However, Maj Gen. Raman Dhawan and Lt. Col. Anil Chandra both have expressed their concern on this issue and have undertaken that this aspect of procedure will be fine-tuned within a month and such delay purely on account procedure will not reoccur.

We appreciate the presence of Maj Gen. Dhawan and Col. Chawla, who have explained all aspects in a very honest and transparent manner.

Mr. Mangalik, Id. adv. for the applicant not being very

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satisfied with the speed in which the matter has progressed, is still of the view that such long time should not be given to the alleged contemnor to decide on this statutory complaint and the matter should be disposed of within two weeks failing which appropriate cost should be imposed.

We have gone through the efforts made by the MoD to deal with the matter and we are of the view that for the sake of justice, four weeks time is adequate. We, however, direct that the MoD shall dispose of this statutory complaint by 2nd of January 2014 and the matter will be listed on 17.1.14 for hearing. Maj Gen. Raman Dhawan and Col. S. Chowla have assured that they will provide all necessary assistance and cooperation to the MoD promptly so that the order of the court can be complied with within the stipulated time frame. In case the MoD does not comply by 2.1.14, we are inclined to impose appropriate cost for further delay.

Further presence of ADG(DV) or any other official from DV Directorate, is dispensed with. However, Director, AG-I, MoD is required to be present on the next date.

To 17.1.14 for hearing.

Let a plain copy of the order duly countersigned by the Tribunal Officer be furnished to all parties after observance of due procedure.

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

(JUSTICE RAGHUNATH RAY)
MEMBER(J)