

FORM NO.4
(SEE RULE 11 (1))
IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA
ORDER SHEET

APPLICATION No. T.A. No. 2/2013

APPLICANT (S)	Brig Balbir Singh
RESPONDENT (S)	Union of India & 3 others
Legal Practitioner for Applicant (s)	Legal practitioner for Respondents
Mr. Rajiv Manglik Miss Manika Roy	Mr. Sandip Kumar Bhattacharyya

	<u>ORDERS OF THE TRIBUNAL</u>
	<p><u>Order Serial Number:</u> 7 Dated : 16.01.2014</p>
	<p>Mr. Rajiv Manglik, learned counsel appears for the applicant. Mr. Sandip Kumar Bhattacharyya, learned counsel appears for the respondents.</p> <p>At the outset, Mr. Bhattacharyya submits, on instruction, that the affidavit-in-opposition (A/O) to be filed on behalf of the respondents is still under vetting by the Ministry of Defence and it is necessary to get the views of the Ministry of Defence as well as Ministry of Finance before filing of their A/O in the matter and, therefore, it is his instruction to pray for further eight weeks' time to file the A/O on behalf of the respondents.</p> <p>Mr. Manglik vehemently objects to such prayer of the learned counsel for the respondents for such long adjournment. He brings to our notice that the matter is pending since March, 2012 in the Hon'ble Bench of the Jaipur Bench before it is subsequently transferred to this Bench in April, 2013. Ever since then, numerous opportunities have been given to the respondents to file their A/O and it is really unfortunate that the respondents have not filed their A/O till date even after being given more than one year to file such A/O. He is of the view</p>

that perhaps the respondent No. 1 is not interested in resolving this issue and that is why they are delaying the matter in filing their A/O. Mr. Manglik further draws our attention to Rule 20 of the Armed Forces (Procedure) Rules, 2008 and various other decisions wherein indefinite time for filing any document, even affidavit, cannot be given with successive adjournment as it is being sought for in this case. He, therefore, prays that the matter should be taken up for hearing and a judicial decision be given with available records.

We have heard both sides and examined the matter. We are of the view that in this case, views of the Government of India, Ministry of Defence i.e. respondent No. 1 is essential because it involves two wings of Engineers Branch of the Army i.e. the Combat Engineers and the MES; with regard to their fixation of salary and grade pay. This is an issue i.e. perhaps lingering ever since the decision of the 6th Central Pay Commission in 2006 and there would have been many anomalies committees at various levels which would have addressed this issue and obviously it still remains unresolved giving rise to litigations like this TA. Therefore, it is even more important for the respondent No. 1 to file their A/O encompassing the views of all other respondents as already pointed out vide our earlier order dated 27.08.2013 that there would be clash of interest between the views taken by the respondent No. 1 and 2.

Considering all the above aspects, we are of the view that for a judicious adjudication of this matter, views of the respondent No. 1, as already stated, must be brought before this Tribunal in the form of an affidavit by the next date for which we grant six weeks time, although eight weeks was prayed for by the learned counsel for the respondents.

We however make it very clear that numerous opportunities have been granted to the respondent No. 1 since March, 2012; and in this Tribunal since April, 2013. Allowing any more adjournment only to file their A/O will be detrimental in the interest of speedy justice.

Therefore, let this be considered as the last opportunity for the respondent No. 1 to file their A/O. We further direct that a responsible officer, not below the rank of Director, on behalf of the respondent No. 1 shall be personally present on the next date to explain the delay and submit the A/O and discuss any other issues with regard to the related documents like the Anomaly Committee Report etc.

We further make it very clear, in case of non-compliance of our order of this day, we would ourselves call for certain important documents and adjudicate the matter, even without any A/O from the respondents, in accordance with law.

Let the matter appear for further order on 10.03.2014.

Learned Registrar of this Tribunal is directed to send a copy of this order directly to the respondent No. 1 to enable him to take an early action in the matter.

A plain copy of the order, duly countersigned by the Tribunal Officer, be given to the parties upon observance of all usual formalities.

(Lt Gen K.P.D. Samanta)
Member (Administrative)

(Justice Raghunath Ray)
Member (Judicial)