

FORM NO – 4

(SEE RULE 11 (1))

IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORDER SHEET

APPLICATION No : R,A 1/2014 (T A 8/2011 (WP(S) 5362/2008)

APPLICANT (S)

Bijay Shankar Kumar

RESPONDENT (S)

Union of India & 2 Ors

Legal Practitioner of applicant

Legal Practitioner for Respondent (s)

Mr. Aniruddha Datta

Mr. S.K.Bhattacharyya

NOTES OF THE REGISTRY	<u>ORDERS OF THE TRIBUNAL</u> Order Sl. No. : <u>1</u> Dated : <u>17.02.2014</u>
	<p>Mr. Aniruddha Datta, Id. adv. appears for the review applicant. Mr. S.K.Bhattacharyya, Id. adv. appears on behalf of the respondents by filing memo of appearance. Let it be kept with the record.</p> <p>Mr. Bhattacharyya submits that the ibid RA is not maintainable and it should not have been admitted at the first place. To this effect, he has drawn our attention to Sec. 14(4)(f) of the AFT Act, 2007, as per which, according to Mr. Bhattacharyya, while power of review has been vested with this Tribunal under the Code of Civil Procedure, 1908, vide Sec. 114, it would be applicable when a case is decided u/s 14 of the AFT Act, 2007. However, in this case, the connected TA was decided u/s 15 of the Act as an appeal. There is no provision of review in criminal matters vested on any criminal court including appellate court under the Cr. P C . Therefore, Mr. Bhattacharyya submits that such review application filed against an order passed u/s 15 of the Act, cannot be admitted.</p>

Mr. Datta prays for some time to argue this matter which is technical in nature. He is not prepared to rebut the point raised by Mr. Bhattacharyya.

We have heard the submissions of both sides and also observe the limitation of review as per Sec.362 of Cr. P. C. Be that as it may, for the sake of justice, prayer for adjournment made by Id. counsel, Mr. Datta be granted. We are of the view that the matter cannot remain listed under the heading "for hearing" and accordingly, it is taken off the "hearing list" and be placed for admission on 20.3.14.

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

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

(JUSTICE RAGHUNATH RAY)
MEMBER(J)