

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

APPLICATION NO. O. A. No.92/2013

APPLICANT(S)

Krishnendu Patra

RESPONDENT(S)

Union of India & 5 Ors.

Legal Practitioner for Appellant(s)
Mr. Arup Kundu

Legal Practitioner for Respondent(s)
Mr. Anup Kumar Biswas

ORDER OF THE TRIBUNAL	
Order No. 3	Dated: 13.03.2014
<p>Mr. Arup Kundu, Id. advocate led by Mr. Dilip Kumar Maity, Id. advocate appears for the appellant and Mr. Anup Kumar Biswas, Id. advocate for the respondents is present.</p> <p>Mr. Biswas, Id. adv. for the respondents filed a set of photocopies of SCM proceedings along with Court of Inquiry proceedings, summary of evidence proceedings and JAG Review Report which have been kept with the records since 27.02.2014. We find, all these are certified photocopies whereas our clear instructions, as contained in our order dated 27.01.2014 and 18.11.2013, was to the respondents to file all the ibid records in original. The respondents must understand that the trial court, which in this case was the SCM, must send all original trial records to the appellate court for proper adjudication since the ibid case is an appeal matter u/s. 15 of the Armed Forces Tribunal Act, 2007.</p> <p>We have seen that the respondents have taken no steps to get the original records and have treated this matter in a routine manner without even conveying the gist of our order by</p>	

emphasizing that the records that were to be submitted must be in original. It is surprising to find that the JAG Branch , HQ Bengal Area is not even aware who would be the custodian of original records. In this case, we find that no communication has even been made to the OC Records (AMC), Central Command Hospital, Lucknow, who, in this case, would ordinarily be the custodian of all original records of the trial court of the ibid SCM, once the SCM was over.

Be that as it may, we find that the respondents have only wasted time of this Tribunal and delayed the matter unnecessarily, which is not at all acceptable.

We make it very clear that by the next date all original records must be obtained from whichever authorities, who are holding the same. In case, they are unable to produce the original records then OC, AMC Records, Lucknow and OC Troops of Command Hospital, Lucknow shall be personally present to explain their dereliction and interference in the Court's work.

We also make it very clear that imposition of cost will be considered in case the respondents continue to take the matter very lightly which is making the appellant suffer for no fault of his own.

It is not the proper manner in which the Govt. cases are defended. Therefore, we direct Capt. Jashpreet Kaur, officiating OIC, Legal Cell, HQ Bengal Area to apprise the GOC, Bengal Area along with a copy of this order to ensure that such lapses are not repeated in future.

However, for the sake of justice, the matter is adjourned till 23.04.2014 for further order. All actions as enumerated above shall be completed by the next date.

With the leave of the Court, as prayed for by Mr. Das, Id. adv. for the appellant, respondent No.6 may be replaced by OC Records (AMC), Central Command Hospital(CC), Lucknow-226 002. Mr. Das makes necessary amendment in the original case records with an endorsement in the margin of the cause title. The respondents shall amend their cause title accordingly.

A plain copy of the order, duly countersigned by the Tribunal Officer, be furnished to both sides after observance of usual formalities.

To 23.04.2014 for further order.

(LT. GEN. K.P.D.SAMANTA)
Member (Administrative)

(JUSTICE RAGHUNATH RAY)
Member (Judicial)