

FORM NO.4
(SEE RULE 11 (1))

ORDER SHEET

APPLICATION No. R.A. No. 1/2014

{Arising out of TA No. 8/2011 -WP(S) No. 5362/2008}

APPLICANT (S)

Bijay Shankar Kumar

RESPONDENT (S)

Union of India & 2 Others

Legal Practitioner for Applicant (s)

Legal practitioner for Respondents

Mr. Aniruddha Datta

Mr. S K Bhattacharyya

<u>ORDERS OF THE TRIBUNAL</u>	
<u>Order Serial Number:</u> 2	Dated :20.03.2014
	<p>Mr. Aniruddha Datta, learned counsel appears for the applicant and Mr. S K Bhattacharyya, learned counsel appears for the respondents.</p> <p>On the earlier occasion when this matter appeared in the list on 17.02.2014, Mr. Bhattacharyya, learned counsel for the respondents submitted that this RA (No. 1/2014) was not maintainable. To that effect, he drew our attention to Section 14(4)(f) of the Armed Forces Tribunal Act, 2007 (AFT Act, 2007), as per which, while power of review has been vested with this Tribunal under Section 114 of the Code of Civil Procedure (CPC), 1908, it would be applicable when a case is decided under Section 14 of the AFT Act, 2007. There is no provision of review in criminal matters vested on any criminal court including the appellate court under the Code of Criminal Procedure (Cr.PC). According to Mr. Bhattacharyya, this case was decided under Section 15 of the AFT Act as an appeal. Therefore, such review application filed against an order passed under Section 15 of the AFT Act would not be maintainable.</p>

Mr. Datta, learned counsel for the applicant had prayed for some time to rebut the above points raised by Mr. Bhattacharyya. Mr. Datta, learned counsel, entering appearance on behalf of the applicant this day, admits that there is no provision for review of a decision passed under Section 15 of the AFT Act. Therefore, he prays that this RA be converted into an MA and clarifications sought for therein be provided to him so that the order passed on 13.12.2013 in TA No. 8/2011 {WP(S) No. 5362/2008} can appropriately be implemented.

At this point, Mr. Bhattacharyya submits that after pronouncement of the final order on 13.12.2013 in TA No. 8 of 2011, this court becomes functus officio in the matter. Therefore, it would not be appropriate to entertain any MA on a matter which does not lie in this court any more. More so, when there is a specific provisions under Section 29 of the AFT Act for execution of the order of this Tribunal, question of filing any MA also does not arise.

We have heard the learned counsel from both sides. We are of the view that this RA (No. 1/2014) is not maintainable for the reasons as cited by the learned counsel for the respondents. Let the RA (No. 1/2014) be, therefore, dismissed as not maintainable.

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)