

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

APPLICATION NO : O. A. No.3/2012

APPELLANT (S)

Jyotish Chandra Jana & Another

RESPONDENT(S)

Union of India & 8 Ors.

LEGAL PRACTITIONER FOR APPELLANT(S)
Mr. Parimal Kumar Dwari

LEGAL PRACTITIONER FOR RESPONDENT(S)
Mr. S. K. Bhattacharyya (Resp. Nos.1-7)
Mr. Gopal Krishna Maiti (Resp. No.8)

Order No. 31

ORDER OF THE TRIBUNAL

Dated: 14.05.2015

Mr. Parimal Kumar Dwari, Id. advocate appears on behalf of the applicant and Mr. S. K. Bhattacharyya, Id. advocate for the respondent Nos. 1 to 7. Mr. Gopal Krishna Maiti, Id. advocate led by Mr. Keshab Bhattacharjee and Mr. Jagabandhu Roy, Id. advocates appears for respondent No.8. Capt Swarnika Chamola, Offg. OIC, Legal Cell, HQ Bengal Area is also present.

Heard Id. advocates for both sides. We have been informed that after the death of L/Nk Soumitra Jana because of HIV infection, his wife Sm. Uma Rani Jana has also been suffering from HIV infection and passing her days with fear and anxiety. At present Sm. Uma Rani Jana is residing at her parental house. She has got a female child aged about six year. By a temporary injunction, Civil Court directed the respondents to pay the amount of 50% of the pension of Late Soumitra Jana to Sm. Uma Rani Jana, wife of late Soumitra Jana restraining from disbursing the remaining amount of 50% till the disposal of the suit.

Keeping in view the future of of six year old minor female child, it shall be appropriate that some amicable settlement may be done so that in case Sm. Uma Rani Jana does not survive then the minor female child may have got some shelter or protection from her grand parents as well as maternal uncles. Accordingly, we are of the view that in pursuance of Section 89 of the Code of Civil Procedure, 1908 the matter may be amicably settled by conciliation/mediation without entering into the merit of the controversy. We wish to observe that in case 25% of the pension is

paid to the parents i.e. after the order of payment of 50% pension to Sm. Uma Rani Jana, wife of the deceased Army personnel, Soumitra Jana, the remaining 25% of the pension should be paid to the six years old minor female child followed by the right of the female child to enjoy the property of the parents to the extent of her father's share may solve the dispute.

In view of the above, we appoint Mr. Dipak Kumar Mukherjee, President, AFT Bar Association, Kolkata as Mediator/Conciliator to convene a meeting of both sides as mediator to resolve the dispute. Observation made by this Tribunal may be considered by the parties.

As agreed by Id. counsel for both sides they may appear in the chamber of Mr. D. K. Mukherjee on 03.06.2015 at 2.00 P.M. Let the parties appear before Mr. Mukherjee on the said date to resolve the issue and prepare written agreement duly signed by them.

List the matter on 18.06.2015. Parties be present before the Court on that date. Mediator shall submit his report by the next date.

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

(LT GEN GAUTAM MOORTHY)
Member (Administrative)

(JUSTICE DEVI PRASAD SINGH)
Member (Judicial)