

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

ORDER SHEET

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

APPLICANT (S)	Jyotish Chandra Jana & Another
RESPONDENT (S)	Union of India & 8 Others
Legal Practitioner for Applicant (s)	Legal practitioner for Respondents
Mr. Parimal Kumar Dwari	Mr. S. K. Bhattacharyya (Resp. Nos. 1-7) Mr. Gopal Krishna Maiti (Resp. No. 8)

	<p style="text-align: center;"><u>ORDERS OF THE TRIBUNAL</u></p> <p>Order Serial Number: 35 Dated : 06.08.2015</p>
	<p>Mr. Parimal Kumar Dwari, learned counsel appears for the applicant. Mr. S K Bhattacharyya, learned counsel assisted by Major Narendra Singh, OIC, Legal Cell, HQ Bengal Area appears for the Government respondent Nos. 1 to 7. Mr. Gopal Krishna Maiti, learned counsel assisted by Mr. Keshab Bhattacharyya, Sr. Advocate and Mr. Jagabandhu Roy, Advocate appears for the private respondent No. 8. The parties also are present in person.</p> <p>Heard the learned counsel for the parties. In terms of our earlier order dated 31.07.2015, the parties file a joint affidavit today duly signed by Mr. Jyotish Chandra Jana and Smt. Uma Rani Jana whereby they have entered into an amicable settlement . The relevant portion from the said joint affidavit is reproduced below:-</p> <p>“1. The entitled family pension shall be divided among widow of Soumitra Jana, daughter of Soumitra Jana and mother of Soumitra Jana 50%, 25% and respectively.</p> <p>2. After death of applicant no.2 Shyamali Jana, the share of family pension to be given to the daughter of Soumitra Jana and as a result the share of family pension of daughter of Soumitra Jana will be 50%.</p> <p>3. The property of the applicant no.1 shall be equally inherited and divided amongst two sons and widow of late Soumitra Jana and wife of the applicant no.1. The Share of deceased soldier shall be inherited by the respondent no.8 without any right to dispose of the same and in due course it shall go to the child of the deceased soldier.</p>

4. *With regard to the compassionate appointment to the respondent no.8, the Order No.34 dated 31.7.2015 passed by the Ld. Tribunal, the Govt. respondents will act accordingly."*

Since affidavit has been filed with amicable settlement, the Court having been conferred power under Section 89 of CPC as well as the present trend in the matter of judicial review, we accept the terms in letter and spirit of the affidavit filed today and direct the parties to comply with the conditions contained therein, the relevant portion of which has been reproduced hereinabove.

We direct the respondents to divide the pension in terms of the aforesaid compromise along with the arrears, if any.

We further direct the respondents to consider for compassionate appointment of the widow of the deceased soldier (respondent No. 8) keeping in view the Tribunal's order dated 31.07.2015. The respondent No. 8 may submit application to appropriate authorities, if necessary in required format which shall be considered expeditiously, say within a period of three months from the date of receipt of such representation. Without creating any precedent, we direct the competent authorities to consider the application on merit under the scheme ignoring the delay, if any, which seems to be because of pendency of litigation. A bio data of the respondent No. 8 has also been handed over to Major Narendra Singh, OIC, Legal Cell, HQ Bengal Area to forward it to the local authorities to consider it sympathetically for her appointment either on contract basis or in any Army canteen or Army School. The respondent No. 8 being suffering from HIV and it appears there is no possibility to complete a normal life for her, a quick decision is required in the matter without further loss of time.

With the consent of both the parties, the application is finally disposed of with the aforesaid direction in terms of the compromise.

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 Gautam Moorthy)
Member (Administrative)

(Justice Devi Prasad Singh)
Member (Judicial)