

FORM NO – 4
(SEE RULE 11 (1))
IN THE ARMED FORCES TRIBUNAL, KOLKATA BENCH
ORDER SHEET

APPLICATION No. O.A. No.86/2012

APPLICANT (S)	Rajendra Nath Gharai
RESPONDENT (S)	Union of India & 3 Ors
Legal Practitioner for applicant (s)	Legal practitioner for Respondents
Mr. Sandip Kumar Bhattacharyya	Lt. Col. Mukul Dev

<u>ORDERS OF THE TRIBUNAL</u>	
	Order Serial Number: Dated : 05.11.2012
	<p>Mr. Sandip Kumar Bhattacharyya, learned counsel appears for the recorded Advocate for the applicant Mr. Suman Basu and prays for grant of interim prayer to the effect that the provisional pension that was sanctioned vide PPO No. S/054738/2006 (Army) by the Office of the Principal CDA(Pension), Allahabad on 12.2.2007 be given effect to, so that the immediate suffering of the applicant can be addressed. He also brought to our notice that the applicant who was charged under Section 302/201 IPC was acquitted of the said charges by Mrs. K C Barphungpa, the learned Sessions Judge, Special Division – I, Sikkim at Gangtok on 29.09.2011. The learned counsel for the applicant further prays that in view of the above, his case be admitted and heard as expeditiously as possible and in the meantime his interim prayer for commencement of the provisional pension of his client be allowed.</p> <p>It has also been brought to our notice by Mr. Bhattacharyya that on the same issue the applicant had represented to the Chief of Army Staff on 27.01.2012 praying for grant of provisional pension sanctioned to him prior to his acquittal on 29.09.2011. We find from records that although such representation was sent in the month of January, 2012, till date no response has been received although more than six months have elapsed.</p>

No counsel appears for the respondents. However, Lt. Col. Mukul Dev from Legal Cell, HQ Bengal Area enters appearance and submits that the recorded advocate in this case Mr. Souvik Nandy could not appear this day due to his personal problem.

With due consideration to the sufferings of the applicant, who, as per present status, stands acquitted of the criminal charges, cannot be denied of his pension, if otherwise eligible. After perusal of documents like the provisional PPO and the Sessions Court judgement acquitting the applicant, which are not contested by the opponent, the interim prayer made by the applicant and submission made by Mr. Bhattacharyya in this regard was heard by us.

We grant relief to the applicant with regards to such interim prayer and the respondents are directed to abide by the provisional PPO as mentioned above that has been sanctioned with effect from the date of its issuance. The dues that would accrue on such provisional PPO be paid to the applicant within 30 days from the date of receipt of this order.

Since no affidavit in opposition has been filed as yet, the matter is fixed for 21.12.2012 for further order. The affidavits be exchanged in the meantime.

(Lt Gen K.P.D. Samanta)
Member (Administrative)

(Justice Raghunath Ray)
Member (Judicial)