

**FORM NO. 4**

**(SEE RULE 11 (1))**

**IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA**

**ORDER SHEET**

**APPLICATION No. O.A. No. 82/2015**

APPLICANT (S)

EX-SEP Kinkar Pramanik

RESPONDENT (S)

Union of India & Others

Legal Practitioner for Applicant (s)

Legal practitioner for Respondents

Mr. Subhash Chandra Basu

Mr. B.K. Das

	<p style="text-align: center;"><b><u>ORDERS OF THE TRIBUNAL</u></b></p> <p><u>Order Serial Number:</u> 15                      Dated :26.09.2016</p>
	<p>Present : Mr. Subhash Chandra Basu, Id. Counsel for the applicant and Mr. B.K. Das, Id. Counsel assisted by Maj Narender Singh, OIC, Legal Cell.</p> <p>On the 17<sup>th</sup> March, 2016 this Tribunal has passed the following order :</p> <p><i>“Mr. Subhash Chandra Basu, the Learned counsel is present for the applicant. Mr. B.K. Das, the learned counsel is present for the respondents. Maj Narender Singh, OIC, Legal Cell is also present.</i></p> <p><i>2. Mr. Basu, the learned counsel for the applicant files affidavit-in-reply in Court, which may be kept on record. He has also placed a letter of the PCDA (Pension) Allahabad dated 4<sup>th</sup> August, 2015, whereby the State Bank of India has been directed to pay constant attendance allowance. The applicant is directed to approach the concerned bank, for payment and then submit the result in the form of affidavit by next date.</i></p> <p><i>3. Let the matter fixed for hearing on 27<sup>th</sup> April,2016.”</i></p>

Today, the learned counsel for the respondents has produced a letter dated 01.04.2016, according which, the CAA (Constant Attendance Allowance) was sanctioned only for the period wef 03.07.1995 to 20.04.2006. Accordingly, it has been submitted by the learned counsel for the respondents that the stoppage of CAA is justified. On the other hand, our attention has been invited to the report of the Medical Board which, according to the applicant's counsel indicates that the condition remain unchanged. According to the learned counsel for the applicant, in case condition remain unchanged then prima-facie there appears to be no justification to stop the CAA. The OIC, Legal Cell submits that according to Medical Board CAA is not necessary. He also submits that according to Medical Board's opinion the condition is static. In case the condition is static or unchanged then prima-facie there is no justification on the part of the respondents to stop the CAA and it is unfortunate on the part of the respondents to pass such an order, the order dated 01.04.2016, the relevant portion of which is reproduced below :

*"Please refer to this letter No. AT/PSB/IX/Kolkata/WB/15 dated 04.08.2015 wherein it was instructed to you by mistake to pay the Constant Attendance Allowance to the above named pensioner at the revised rates for life.*

*In this connection, it is intimated that the CAA was sanctioned to the above named pensioner for the period wef 03.07.1995 to 20.04.2006 only @ Rs. 300/- pm vide this office PPO No. D/RA/5385/2000.*

*So, you are advised to treat this office letter of even No. dated 04.08.2015 as cancelled."*

In view of above, we direct the respondents to file an affidavit stating that as to how and under what circumstances they have stopped the CAA and to explain as to why the proceedings for contempt in criminal or civil nature may not be initiated against the concerned authorities of the respondents keeping in view the statements given on 17<sup>th</sup> March, 2016 before this Tribunal. The applicant's counsel is

also permitted to file a counter affidavit. In the affidavit the respondents shall bring on record the names of all persons who are behind the order dated 01.04.2016. At this stage, the learned counsel for the respondents submits that PCDA (P), Allahabad has done it on the basis of Re-Survey Medical Board and if it is so then the PCDA(P) shall also file his personal affidavit. In case no further step is taken with regard to revival of payment by the next date, all dues shall be recovered from the salary of PCDA(P). By catena of judgments we have observed that PCDA(P) lacks jurisdiction to interfere in such matters. The Chairman of the Medical Board shall also file affidavit stating, inter alia, under what circumstances such assistance has been stopped.

List the matter for hearing on 25.11.2016.

Let a plain copy of this order, duly countersigned by the Tribunal Officer, be handed over to the parties after observance of usual formalities.

(Lt Gen Gautam Moorthy)  
Member(Administrative)

(Justice Devi Prasad Singh)  
Member (Judicial)