

(SEE RULE 11 (1))

IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORDER SHEET

Raghunath Rout

Union of India & 3 Others

Legal practitioner for Respondents

Mr. Anup Kumar Biswas

<u>ORDERS OF THE TRIBUNAL</u>	
<u>Order Serial Number:</u> /	Dated : 17.04.2013
	<p>Mrs. Sonali Das, learned counsel appears for the applicant. Mr. Anup Kumar Biswas, learned counsel appears for the respondents and he undertakes to file his memo of appearance to that effect by next date.</p> <p>At the outset, Mr. Biswas submits that he has not yet been served with any copy of the application and, therefore, he is not in a position to file his affidavit-in-opposition to the application. At this stage, Mrs. Das undertakes to serve copy of the application upon Mr. Biswas during the course of the day. Mrs. Das further prays for leave of the court to make some minor correction in the cause title of her application with regard to respondent No. 2. Such leave is granted to Mrs. Das and she makes the necessary correction in the cause title with regard to respondent No. 2 with the leave of the court.</p> <p>Briefly, this application relates to the applicant who is an ex-Subedar of Regiment of Artillery now posted in a unit at Nagtalao (Jodhpur) and he has been discharged from service on 17.11.2012 after having put in approximately 21 years of colour service. We find from the records that the application is well within time and, therefore, it is a fit case for admission. Let the OA be admitted.</p> <p>At this stage, however, Mrs. Das drew our attention to the interim prayer as mentioned in the ibid application wherein the applicant has prayed to be allowed to retain the Government accommodation at</p>

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Nagtalao (Jodhpur) till ~~pendency~~ ^{the disposal} of this application. She further emphasizes that the children of the applicant are continuing their education at Nagtalao and at this stage they would be adversely disturbed in case they are evicted from Government quarter and, therefore, she prays for this interim prayer to be allowed without any delay. We, however, note that there are rules and procedures in the Army, as are for all the Central Government organizations, which govern the procedure for retention of Government accommodation after retirement. We find nothing on record to show that any such procedure has been violated in any manner adding to the grievance of the retired Subedar, who is the applicant. Moreover, we also find that the applicant has not even applied to the competent authority, who, in this case would be Military Station Commander of Nagtalao, for further retention of Government quarter. Without any such application and without any document to suggest that any injustice has been done to the family of the applicant, we are not in a position to interfere in the routine administration of the Armed Forces.

Therefore, with regard to the interim prayer, we direct the applicant to immediately apply for retention of the said Government quarter for a further period, as admissible under the rules or as is required by him on the ground of education of his children or any other compassionate ground, as deemed appropriate. Such an application shall be considered by the competent authority at Nagtalao expeditiously and no harsh action is thus necessary from their ends without due consideration. We also direct the respondents to intimate the competent military authorities at Nagtalao to expeditiously and compassionately consider the applicant's needs for retention of Government accommodation and not to link it with the cause of discharge or conduct of the retired defence personnel who has served them for approximately 21 years and has risen to the rank of Subedar. In any event, due care should be taken within the rules to see that the academic careers of the children of the applicant are not jeopardized on account of misgiving by the applicant or perception thereof. We are of the view that the Station Commander of Nagtalao,

who would be a very senior officer, would consider this matter very maturely and compassionately so that unnecessary litigations for retention of Government accommodation do not start appearing before the court of law.

Mr. Biswas prays for five weeks time to file their A/O to the application and Mrs. Das prays for three weeks time thereafter to file A/R to the AO. Such prayers stand granted.

Let the matter appear for further order on 11.07.2013.

A plain copy of the order, duly countersigned by the Tribunal Officer, be given to the parties upon observance of usual formalities.

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

(Justice Raghunath Ray)
Member (Judicial)