

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

APPLICATION No. T.A.No.45/2012

APPLICANT (S)	Suraj Kant Prasad Singh
RESPONDENT (S)	Union of India & 4 Others
Legal Practitioner for Applicant (s)	Legal practitioner for Respondents
Miss Manika Roy	Mr. Anup Kumar Biswas

	<p style="text-align: center;"><u>ORDERS OF THE TRIBUNAL</u></p> <p>Order Serial Number: 3 Dated : 07.05.2013</p>
	<p>Miss Manika Roy, learned counsel appears for the applicant and Mr. Anup Kumar Biswas, learned counsel appears for the respondents.</p> <p>Mr. Biswas has filed Affidavit-in-Opposition on this application on 13.02.2013 raising preliminary objection with regard to the maintainability of this application Mr. Biswas has drawn our attention to Section 3(o)(iii) of the Armed Forces Tribunal (AFT) Act, 2007 according to which it is beyond the jurisdiction of this Tribunal to adjudicate all matters relating to summary punishment that has been awarded which does not amount to dismissal. He has very clearly raised this issue to the effect that in the present case the applicant had been awarded 'severe reprimand' and was retained in service; therefore, such summary punishment would be beyond the purview of the AFT Act in terms of its jurisdiction to adjudicate.</p> <p>Miss Roy, however, argued on the matter by raising the issue that the application could be considered on compassionate ground because the applicant has missed his promotion on account of such punishment and, therefore, he could be treated under Section 3(o)(iv) where 'any other matter, whatsoever' can be considered by this Tribunal. She very clearly submits that the grievance of the applicant is actually for promotion which he has missed because of said award of summary punishment. Further, the impact of punishment has indeed affected the applicant's career and promotion adversely thus giving rise to the grievance. On this account, she is of the view that in case this</p>

application is not admitted on maintainability issue as raised by Mr. Biswas, then at least this application can be heard as a fresh "service matter" issue relating to the promotion of the applicant. In this respect, she submits that she is prepared to withdraw this application with liberty sought for to file a fresh original application (OA) bringing forth the issue of promotion that was denied to the applicant within the definition of 'service matters'.

We have heard both sides. As prayed for by the learned counsel for the applicant, the application is dismissed as withdrawn. Liberty is granted to the applicant to file fresh OA on any other appropriate issue, if so advised within six weeks from this date. The period of pendency of this application right from the time when it was filed before the Hon'ble Jharkhand High Court till date is condoned.

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

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

(Justice Raghunath Ray)
Member (Judicial)