

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

APPLICATION No. O.A. No. 127/2012

APPLICANT (S) Major Kewal Krishan Chopra (Retd.)

RESPONDENT (S) Union of India & 9 Others

Legal Practitioner for Applicant (s) Legal practitioner for Respondents

Mr. Suman Basu

Mr. Souvik Nandy

	<u>ORDERS OF THE TRIBUNAL</u>
	Order Serial Number: <u>5</u> Dated : 08.07.2013
	<p>Mr. Suman Basu, learned counsel appears for the applicant and Mr. Souvik Nandy, learned counsel appears for the respondents.</p> <p>This day was fixed for the respondents to file certain documents with regards to the applicant's service in the ranks in Indian Air Force and as an Emergency Commissioned (EC) officer in the rank of Captain in the Army (ASC) prior to being commissioned in the Territorial Army (TA). These documents are essential for us to ascertain the details of the past services of the applicant and the rules with regard to such service being counted with the TA embodied service so as to determine the applicant's eligibility to pension, which is his prayer. The respondents, in their A/O, have not controverted such claim made by the applicant. Despite clear instructions to the respondents in our order dated 07.05.2013, these vital documents and policy notifications have not been filed till date. Mr. Nandy again prays for three more weeks to file these documents.</p> <p>We are not, however, satisfied with the efforts taken by the respondents to obtain the details of the past services of the applicant. We notice from the internal file of the Legal Cell, HQ Bengal Area that instructions were sent to the respondents on 07.05.2013 followed by the court order which was communicated on 10.05.2013 instructing them to submit such records. We further notice that reminder to this effect was sent by a signal only on 06.07.2013 i.e. two days prior to the listing of this case before this Court.</p>

The respondents should be sensitive enough to the fact that the applicant is an old man of nearly 78 years of age and his prayer for pension should not be delayed any longer. Any delayed justice will be infructuous to this senior citizen of the Armed Forces. It is rather surprising to note from the correspondences of the Legal Cell, HQ Bengal Area that no such urgency or sensitivity for welfare of the elderly ex-serviceman was reflected in their communication and efforts to obtain such details.

The respondents, being a part of welfare state must ensure that if at all the applicant is entitled to any relief in terms of pension, then such award should be made available to him at the earliest during his life time.

However, for the sake of justice, Mr. Nandy be granted three more weeks, as prayed for, to cause production of documents authenticating the service details of the applicant in TA and prior service as claimed by the applicant. Mr. Nandy is also directed to produce the policy letters with regard to counting of past service of the applicant including his services in the ranks towards pension.

We make it very clear that in case the respondents are unable to produce any document by the next date, then the statement made by the applicant with regard to his past services in the Air Force and in the Army as Emergency Commissioned (EC) officer shall be accepted as uncontroverted.

Let the matter appear for further order on 27.08.2013.

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

(Justice Raghunath Ray)
Member (Judicial)