

FORM NO – 4

(SEE RULE 11 (1))

IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORDER SHEET

APPLICATION No : O A 13/2013

APPLICANT (S)

Shyam Kumar

RESPONDENT (S)

Union of India & 5 Ors

Legal Practitioner of applicant

Legal Practitioner for Respondent (s)

Mr. Aniruddha Datta

Mr. Dipak Kumar Mukherjee

NOTES OF THE REGISTRY	<u>ORDERS OF THE TRIBUNAL</u>
	Order Sl. No. : <u>10</u> Dated : <u>19.06.2014</u>
	<p>Mr. Aniruddha Datta, Id. advocate is present for the applicant. The applicant is also present in person. Mr. Dipak Kumar Mukherjee, Id. adv. is present for the respondents.</p> <p>Original documents as submitted by the respondents have been examined by us in detail. We find that there are still a lot of gaps which are unexplained, the details of which are as under :-</p> <p>a) Annexure-A2 reveals that the applicant was reverted to his parent unit on completion of Temporary Duty to INS Mandovi. The original documents, however, suggest that he was involved in a disciplinary case while on training at INS Mandovi. Thereafter, disciplinary action was to be taken against him but for some reason such disciplinary action was done away with and he was sent back to his parent unit which is INS Netaji Subhas. This aspect needs clarification with documentary proof attached.</p> <p>b) The main crux of the matter is that the contention made by the applicant is that he completed the RPOQ course at INS Mandovi which is mandatory for those in the</p>

	<p>Provost Branch of the Indian Navy. The respondents, however, in their A/O have submitted that he has not completed this course and he was withdrawn on disciplinary ground. Such submission is not supported by the original documents that have been submitted by the respondents. The applicant has asserted that he appeared in the examination on completion of course. It is quite clear that the applicant was present in INS Mandovi till completion of the course duration, which was upto 27.5.12, as is evident from Annexure-A2. Since the applicant was present in the training establishment till 1.6.12 as evident from the movement order (Annexure-A2), it is not understood as to why he did not appear in the examination that was scheduled between 23rd and 25th May 2012. This aspect has not been explained by the respondents clearly. In case the respondents want to prove that he never appeared in the examination, then this aspect needs to be proved with documentary evidence. In case he indeed appeared in the examination, then result sheet needs to be produced by them.</p> <p>c) The mystery as to why no disciplinary action was taken against the applicant despite recommendation by the CO, INS Mandovi, also needs to be elucidated which has not been done.</p> <p>In view of the ibid queries, which have been time and again put forward by us, have not been properly explained by the OIC, Legal Cell of the Navy as he has not been receiving proper instruction from INS Mandovi and he has been submitting only selective information that he has received which is not adequate. This attitude is not appreciated. We are of the view that the CO (Commandant) of INS Mandovi must make an honest</p>
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and transparent submission with regard to the entire issue in the form of an affidavit with necessary supporting documents. Therefore, it is essential that the CO (Commandant) of INS Mandovi be present personally on the next date with all the documents along with a duly sworn affidavit as well. He may bring other officials to assist him if so advised.

Mr. Datta prays for some time for inspection of the original documents as well as to submit a few decisions in support of the case. Such prayer is granted. He may inspect the documents after observing usual formalities with the Registry.

Let the matter be fixed for hearing on 10.9.14. We make it very clear that the matter will be decided on that date with available records.

Let a plain copy of the order duly countersigned by the Tribunal Officer be furnished to both sides on observance of due formalities.

(LT. GEN K.P.D.SAMANTA)
MEMBER(A)

(JUSTICE RAGHUNATH RAY)
MEMBER(J)