

**FORM NO – 4**

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

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

**ORDER SHEET**

**APPLICATION No : T A 4/2013 (OA 473/2011-PB)**

APPLICANT (S)	Ex Rect. Jitendra Kumar
RESPONDENT (S)	<u>Indian Army through Chief of Army Staff &amp; Anr</u>
Legal Practitioner of applicant	Legal Practitioner for Respondent (s)
Mrs. Abha Singh	Mr. Anup Kr. Biswas

NOTES OF THE REGISTRY	<u>ORDERS OF THE TRIBUNAL</u>
	<u>Order Sl. No. :</u> <u>Dated : 23.06.2014</u>
	<p>Mr. Rakesh Kumar Singh, Id. adv. on record for the applicant is not present. The applicant, however, is present in person. Mrs. Abha Singh, Id. adv. prays for an adjournment on the ground that Mr. Rakesh Kumar Singh, Id. adv. is unable to attend the court today from Delhi due to his personal difficulty. Mr. Anup Kr. Biswas, Id. adv. is present on behalf of the respondents.</p> <p>The original records filed by the respondents have already been placed on record and these have been inspected by Mr. Singh as submitted by Mrs. Abha Singh. However, we find no endorsement on the cover.</p> <p>We observe that under the protection of para 520 of Regulations for the Army, 1986, as revised, the respondent authorities (Training Centre) did not carry out any court of inquiry but have annexed injury reports for both the occasions. We, however, find that in one of the injury reports stress fracture is not mentioned. Be that as it may, we find that in both the injury reports, the CO has opined that the injuries have been suffered by the applicant on account of bona fide military duty i.e. cross country training and running of BPUT. The applicant</p>

having suffered two stress fractures also missed training for more than 210 days. Mr. Biswas submits that as per rules in case a recruit misses training for more than 210 days on medical ground then in that case he was to be discharged as per policy. We, however, find that there is no policy letter that has been enclosed with regard to stress fracture. It is an established fact that stress fracture generally happens due to stress and strains of training. Under such circumstances, the respondents are directed to furnish the policy letter which specifies how to dispose of cases of stress fractures and also policy letter that stipulates reporting of stress fracture cases in a training establishment. Stress fracture is an avoidable injury if the training pattern is regulated to suit the candidates on medical conditions and skeletal strength. Since the applicant was a recruit of Parachute Regiment, in normal course he could have been transferred to his parent unit in case of medical ground he was considered unsuitable for parachute regiment. The respondents are required to comment on these aspects and also intimate as to why he was not considered for transfer to a non-parachute unit as per policy which was done for others. These three aspects as stated above shall be explained by the respondents in the form of a supplementary affidavit along with required policy letters to support such affidavit.

Mr. Biswas prays for three weeks time to furnish such affidavit. The prayer is granted. Mrs. Abha Singh prays for two weeks thereafter to submit additional affidavit, if required. Such prayer is also granted. Let the matter be adjourned to 25.8.14 for hearing.

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)