

FORM NO – 4

(SEE RULE 11 (1))

IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORDER SHEET

APPLICATION No : O A 13 of 2011

APPLICANT (S)

Rect. Jai Prakash Choudhary

RESPONDENT (S)

Union of India & 5 Ors

Legal Practitioner of applicant

Legal Practitioner for Respondent (s)

Mr. S.C.Basu

Mr. S.K.Bhattacharyya

NOTES OF THE REGISTRY	<u>ORDERS OF THE TRIBUNAL</u> <u>Order Sl. No. : 13</u> <u>Dated : 05.04.2013</u>
	<p>Mr. S.C.Basu, Id. adv. appears for the applicant and Mr. S.K.Bhattacharyya, Id. adv. appears for the respondents. The application is taken up for hearing.</p> <p>At the outset, Mr. S.C.Basu, Id. adv. for the applicant has drawn our attention to Annexures R1 and R2 to the A/O and submits that the contents of these annexures are not legible. He prays that legible copies of these annexures be supplied to him to which Mr. Bhattacharyya, Id. adv. for the respondents readily agrees and assures that he will do so before the next date.</p> <p>We also observe that the main contention raised in the application is that the applicant, who was recruited as a clerk in the Corps of Engineers, was found to be unfit having failed in the aptitude test that was held for all recruits in this trade at Bengal Engineering Group Basic Training centre, Roorkee on 29.5.2009 in the 10th week of basic military training. The policy for conduct of such test, as submitted by Mr. Basu, is at annexure-A3 to the OA. Mr. Basu submits that the test was not conducted in accordance with this policy because the proportion of objective questions and subjective questions was reversed. Mr. Bhattacharyya while agreeing that the policy as at annexure-A3 is correct, but he does not agree with the contention of Mr. Basu that the conduct of the examination was done in any different manner than</p>

what is prescribed in the policy letter. Mr. Bhattacharyya further submits that the applicant participated in the examination and at no stage he had complained about adoption of misplaced policy while conducting such examination. Be that as it may, Mr. Basu insists that the original answer scripts should be obtained from the authorities and this aspect be ascertained by this Tribunal. For the sake of justice and transparency, we direct the respondents to produce the answer scripts for the examination that was conducted on 29.5.09, if available.

We also observe that the applicant having failed in the aptitude test for the trade for which he was recruited, should have been, as per rules, considered for a lower trade. The respondents are directed to submit the original board proceeding along with result of any test, if held, where he could not be considered for a lower trade. In fact, the reason for which he was found ineligible or declared unfit to be recruited in a lower trade must be explained in more detail by the respondents. This aspect is also to be submitted along with the original records by the next date by the respondents.

We also observe that the applicant, before he was discharged, was served with a show cause notice, a copy of which is at annexure-A1 of the OA. Mr. Basu is to confirm on the next date whether the show cause was replied to by the applicant and if not, the reasons thereof.

Let the matter be adjourned to 11.7.2013 for hearing. The documents/records and clarifications, as called for, be submitted in the meantime.

Let a plain copy of the order duly counter signed by the Tribunal Officer be furnished to both sides.

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

(JUSTICE RAGHUNATH RAY)
MEMBER(J)