

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (List A)

M.A. No. 96 of 2017 In re M.A. No. 1916 of 2015

Bal Krishna Tripathi

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2017</u> <u>Hon'ble Mr. Justice D.P. Singh, Member (J)</u> <u>Hon'ble Air Marshal Anil Chopra, Member (A)</u></p> <p>Present : Shri Beer Prakash, learned counsel for the applicant and Mrs. Anju Singh, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell.</p> <p>The case was taken up in the revised list.</p> <p><u>M.A.No. 96 of 2017</u></p> <p>The application seems to contain incorrect names of the members of the Bench, which passed the order sought to be recalled.</p> <p>The application is rejected with liberty to file a fresh one.</p> <p style="text-align: center;">(Air Marshal Anil Chopra) Member (A)</p> <p style="text-align: center;">(Justice D.P. Singh) Member (J)</p> <p>LN/</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (List A)

O.A. (A) No. 210 of 2010

Rashmi Shukla and another By Legal Practitioner for the Applicant	Applicants
Versus	
Union of India & Others By Legal Practitioner for Respondent	Respondent

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2017</u> <u>Hon'ble Mr. Justice D.P. Singh, Member (J)</u> <u>Hon'ble Air Marshal Anil Chopra, Member (A)</u></p> <p>Present : Shri Yash Pal Singh, learned counsel for the applicant and Shri Anurag Mishra, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell.</p> <p>The present OA (A) has been preferred against the impugned order of cashiering/dismissal from service passed against Capt A.K.Chatterjee, since deceased, father of applicant No. 1 Rashmi Shukla.</p> <p>We have heard Shri Yash Pal Singh, learned counsel for the applicants and Shri Anurag Mishra, learned counsel for the respondents, assisted by Col Kamal Singh and Maj Soma John, OIC Legal Cell, and perused the record.</p> <p>According to the arguments advanced by learned counsel for the parties, late A.K.Chatterjee was commissioned in the Army Medical Corps of the Indian Army as a Captain in July,1962. He was reported to be having illicit relationship with Captain C. Kamamma in spite of the fact that he was a married person. On 30.07.1968, Capt C. Kamamma wrote a letter to the DGAFMS to release her from service on personal ground. However, on 17.10.1968 Capt C. Kamamma committed suicide. In post-mortem report, she was found to be pregnant at the time of death. On the basis of post-mortem report and information received, Capt A.K.Chatterjee was charged under</p>

Section 45 of the Army Act for having illicit relationship with late Capt C. Kamamma, concealing the fact that he was a married person. After GCM proceedings, Capt A.K.Chatterjee was cashiered from service by the impugned order. He filed a writ petition bearing No. 1097 (S/B) of 2010 before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, challenging the *vires* of Army Rule 164. The said petition was dismissed by the judgment and order dated 12.08,2010, a copy of which has been filed with this O.A. However, liberty was given to the petitioner to approach the Army Tribunal for redressal of his grievance.

While assailing the impugned order of punishment, it has been submitted by learned counsel for the applicant that the trial of Capt A.K.Chatterjee was convened on the basis of evidence, which was hearsay in nature and relying upon which no punishment could have been awarded to him. It is also submitted that the post-confirmation petition dated 18.09.1981 has been rejected by a cryptic and unreasoned order, which is liable to be set aside. It has also been submitted that the original record of GCM proceedings may be looked into, which will reveal that several illegalities have been committed during the course of GCM proceedings.

In response to the arguments advanced by the counsel for the applicant, learned counsel for the respondents, assisted by Col Kamal Singh and Maj Soma John, submits that the entire record with regard to the present controversy has been weeded out on 22.07.1980 after statutory period of 7 years. Submission of learned counsel for the respondents is that since the said record has been weeded out, they are not in a position to bring on record the facts with regard to the evidence collected and the manner in which GCM proceeded.

Keeping in view the submissions made by learned counsel for the parties, it is difficult for us to adjudicate upon the controversy raised in the absence of record of GCM proceedings, which is said to be weeded out. So far as the argument of learned counsel for the applicant, that the appellate order is cryptic and unreasoned, is concerned, it is well-settled that even an administrative authority is bound to pass a

reasoned order. A cryptic and non-speaking order passed during quasi-judicial proceedings is hit by Article 14 of the Constitution being violative of principles of natural justice. Such orders must reflect the mind of the said authority so as to indicate how it has dealt with the controversy raised before it. However, the fact remains that since the entire record has been weeded out, that too in pursuance to the powers exercised by the respondents within their jurisdiction, coupled with the fact that the writ petition was filed by Capt A.K.Chatterjee before the Hon'ble High Court after a lapse of more than 40 years, we are helpless to adjudicate the controversy. The petitioner remained sleeping for more than 40 years. We are also of the view that no purpose would be served by remitting the matter back to the appellate authority for adjudicating the controversy afresh under the teeth of the fact that the entire record has been weeded out.

There was inordinate delay on the part of the petitioner in filing the writ petition before the Hon'ble High Court and raising the controversy before the Tribunal. Liberty granted by the Hon'ble High Court does not mean that the Tribunal may adjudicate the controversy on merit in the absence of record.

In view of above, the present OA(A) seems to be not maintainable and is accordingly dismissed.

No order as to costs.

(Air Marshal Anil Chopra)
Member (A)

(Justice D.P. Singh)
Member (J)

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ORDER SHEET
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Court No. 1 (List A)

O.A. (A). No. 290 of 2015

Kaptan Singh

By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others

By Legal Practitioner for Respondent

Respondent

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2017</u> <u>Hon'ble Mr. Justice D.P. Singh, Member (J)</u> <u>Hon'ble Air Marshal Anil Chopra, Member (A)</u></p> <p style="text-align: center;">Present : Shri S.K. Singh, learned counsel for the applicant and Shri Asheesh Agnihotri, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell.</p> <p style="text-align: center;">Four weeks and no more time, as prayed, is allowed to the respondents to file reply to the supplementary affidavit filed by the applicant.</p> <p style="text-align: center;">List this case for hearing on 19.04.2017.</p> <p style="text-align: center;">(Air Marshal Anil Chopra) Member (A)</p> <p style="text-align: center;">(Justice D.P. Singh) Member (J)</p> <p>LN/</p>

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Court No. 1 (List A)

T.A. No. 983 of 2010

Ajit Singh

By Legal Practitioner for the Petitioner

Petitioner

Versus

Union of India & Others

By Legal Practitioner for Respondent

Respondent

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2017</u> <u>Hon'ble Mr. Justice D.P. Singh, Member (J)</u> <u>Hon'ble Air Marshal Anil Chopra, Member (A)</u></p> <p>Present : Shri Beer Prakash, learned counsel for the petitioner and Dr. Shailendra Sharma Atal, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell.</p> <p>Shri S.K.Singh files memo of appearance on behalf of the petitioner. The same is taken on record. When the case is next listed, name of Shri S.K.Singh be also shown as counsel for the petitioner.</p> <p>Bench copy filed by the petitioner is taken on record.</p> <p>List this case for hearing on 23.01.2017. Parties' counsel may file charts of dates and events and compilation of case-laws, if any, in the meantime.</p> <p style="text-align: center;">(Air Marshal Anil Chopra) Member (A)</p> <p style="text-align: center;">(Justice D.P. Singh) Member (J)</p> <p>LN/</p>

Form No. 4
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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (List A)

T.A. No. 1194 of 2010

Sri Ram Singh Pradhan Petitioner
By Legal Practitioner for the Petitioner

Versus

Union of India & Others Respondent
By Legal Practitioner for Respondent

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2017</u> <u>Hon'ble Mr. Justice D.P. Singh, Member (J)</u> <u>Hon'ble Air Marshal Anil Chopra, Member (A)</u></p> <p>Present : Shri R. Chandra, learned counsel for the petitioner and Shri Asheesh Agnihotri, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell.</p> <p>As prayed, list this case for hearing on 24.01.2017 to enable the respondents to file the copy of Court of Inquiry proceedings in terms of the earlier order.</p> <p style="text-align: center;">(Air Marshal Anil Chopra) Member (A)</p> <p style="text-align: center;">(Justice D.P. Singh) Member (J)</p> <p>LN/</p>

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ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No. 1 (List A)

T.A. No. 11 of 2012 with M.A. No. 2347 of 2015

Krishan Lal

By Legal Practitioner for the Petitioner

Petitioner

Versus

Union of India & Others

By Legal Practitioner for Respondent

Respondent

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2017</u> <u>Hon'ble Mr. Justice D.P. Singh, Member (J)</u> <u>Hon'ble Air Marshal Anil Chopra, Member (A)</u></p> <p style="text-align: center;">Present : Shri Shailendra Kumar Singh, learned counsel for the petitioner and Shri Ashish Saxena, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell.</p> <p style="text-align: center;">Heard learned counsel for the parties at some length.</p> <p style="text-align: center;">List this case for further hearing on 20.01.2017.</p> <p style="text-align: center;">(Air Marshal Anil Chopra) Member (A)</p> <p style="text-align: center;">(Justice D.P. Singh) Member (J)</p> <p>LN/</p>

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T.A. No. 63 of 2016

Sri Ram Yadav

By Legal Practitioner for the Petitioner

Petitioner

Versus

Union of India & Others

By Legal Practitioner for Respondent

Respondent

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2017</u> <u>Hon'ble Mr. Justice D.P. Singh, Member (J)</u> <u>Hon'ble Air Marshal Anil Chopra, Member (A)</u></p> <p>Present : Shri V.K. Pandey, learned counsel for the petitioner and Shri Yogesh Kesarwani, learned counsel for the respondents, assisted by Col Kamal Singh, OIC Legal Cell.</p> <p>As prayed by Shri V.K.Pandey, learned counsel for the petitioner, two weeks' time is allowed to file rejoinder affidavit.</p> <p>List this case for hearing on 22.02.2017.</p> <p style="text-align: center;">(Air Marshal Anil Chopra) Member (A)</p> <p style="text-align: center;">(Justice D.P. Singh) Member (J)</p> <p>LN/</p>