

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

RESERVED

Ex-A/35 of 2020 Inre O.A. No. 146 of 2015

Devendra Singh Bhandari
 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>31.08.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>1. Heard Shri Lalit Kumar, learned counsel for the applicant and Dr. Shailendra Sharma Atal, learned counsel for the respondents. As per order dated 03.10.2017 respondents were directed to file the original copy of the Court of Inquiry held consequent to the order dated 03.10.2017.</p> <p>2. The AFT Order dated 03.10.2017 operative portion reads as follows:-</p> <p style="text-align: center;"><i>“The findings of Court of Inquiry dated 09.03.2012 (Annexure A/11) as well as the impugned order dated 08.09.2012 passed by the respondent No. 10 are set aside with consequential benefits. The respondents are directed to investigate the death of Capt Meenakshi afresh and punish the guilty. It shall be appropriate for the respondent i.e. Ministry of Defence, Government of India to refer the matter for investigation of the present case by an independent investigating agency so that truth may come out and departed soul of young lady officer Capt Meenakshi may rest in peace.”</i></p> <p>3. The respondents were inter alia also directed as follows:-</p> <p style="text-align: center;"><i>“We make it open to the Indian Air Force to proceed afresh in accordance to law to investigate into the matter by a High Power Committee.”</i></p>

4. In compliance of the above, a separate C of I headed by an Air Commodore rank officer was ordered by the respondents which assembled at AF Stn, Kanheri Hills on 05 March 2019 vide HQ SWAC letter No. SWAC/C/367/2103/Prov dated 04 March 2019 and on subsequent days with a mandate to :-

“inquire into the circumstances under which late Capt Meennakshi Bhandari (NS21695F) MNS allegedly sustained 90% burn injuries on 25 Dec 11 and succumbed to burn injuries while undergoing treatment at CH Pune on 24 Jan 12 at about 1845 hrs and confirm the factum of death”.

5. The AFT order of 03.10.2017 had made certain observations pertaining to the said incident and the new C of I convened on 05.03.2019 was to have examined these, observations which are as under:-

- (a) Respondent No. 9 (Gp Capt Dinesh Asthana, Ex Commanding Officer of 15 Air Force Hospital) had tried to molest the victim and make advances towards her.
- (b) He failed to meet the parents of the victim before or after the incident.
- (c) No condolences were expressed by him, to the parents of the victim. He was not to leave on the fateful day.
- (d) The burn injuries sustained by Capt Meenakshi Bhandari were caused due to foul play and not by accident.
- (e) There was no burn injury below the knees, giving rise to the suspicion that the fire started from top and not below the victim's body, due to the electric heater.
- (f) Even with 90% burns the victim was able to talk to Capt Divya (who evacuated her to the Air Force Hospital) and was

carried on the back seat of a scooter which is highly suspicious/improbable.

(g) The statement of Capt Divya and Shri KN Gupta (neighbour of victim) are highly untrustworthy.

(h) Cell phone call records in respect of Capt Meenakshi Bhandari – Nothing unusual was found. There was no record of call to Capt Divya.

(j) The earlier C of I has found no evidence of any “third party” involved in the house of late Capt Meenakshi Bhandari.

(k) Allotment of Transit Married Quarter No. 10 to late Capt Meenakshi Bhandari was not as per rules and such action is questionable and suspicious, especially since there were vacant rooms in the Single Officers Mess Accommodation.

(l) Fire started due to wrap around coming in contact with hot electrical appliance. This is a controversial presumption.

(m) Late Capt Meenakshi Bhandari was able to answer questions even when she was admitted in Command Hospital, Pune, in a severely burnt condition.

6. We have perused the C of I proceedings held on 05.03.2019 (and on subsequent days), which was convened on orders of this Tribunal, vide order dated 03.10.2017, as also the other affidavits on record.

7. We have noted that the fresh C of I, has systematically re-examined all witnesses of the previous C of I (wherever possible) as also new witnesses, with a view to answer the main observations raised by AFT order dated 03.10.2017.

8. Having so perused the above proceedings, and after examining the various observations recorded in the AFT order of 03.10.2017, we converge to the view that :-

(a) Capt Meenakshi Bhandari was allotted TMQ 10 in September 2011, following due process by the Station Administration and Gp Capt Dinesh Asthana had no role in the matter.

(b) The cause of the fire and the absence of burns marks below the knees was re-examined by the C of I and the same has been analysed as under:-

“Court has analyzed this situation and is of the opinion that since wrap arounds are generally loose below knee level and becomes tight above knee level. This may be the reason for burn marks not available in both legs below the knees. Lack of burn injuries below knees may also raise a doubt that some inflammable liquid was poured over late Capt Meenkshi Bhandari and then she was set on fire. However, it is pertinent to note that if any such liquid is poured over a body it will spill on the floor and will leave black burnt marks on the floor wherever the liquid has spilled which will be uneven and non-confined to a limited area. However, there is no mention of such marks by previous C o I of Dec 11 or in the 8 P&S Unit report. Also, the photographs attached as Exhibit ‘C26 to C32’ reveal burnt marks on the floor that are confined to the place where Late Capt Meenkshi Bhandari was sitting or area used by her while she was engulfed in fire. Therefore, the court rejects the possibility that some inflammable liquid was poured over Late Capt Meenkshi Bhandari.”

(c) The C of I has found that there was a record of call made by late Capt Meenakshi Bhandari to Capt Divya for a duration of 39 seconds at around 0016 hrs on 25.12.2011 and that, late Capt Meenakshi Bhandari was still in her senses when she made the call using the stored

number of Capt Divya.

(d) The new C of I has not found evidence of any scuffle between or resistance to a third person in the room of TMQ 10 on the fateful night.

(e) That Gp Capt Dinesh Asthana was on leave has been established by the fact that there was a handing over/taking over signing off in the register between him and his 2 i/c viz. Wg Cdr DK Boro on 21.12.2011. The incident took place on night of 24/25 Dec 2011.

(f) There is no formal written complaint by late Capt Meenakshi Bhandari to any authority regarding her alleged harassment at the hands of her Commanding Officer viz Gp Capt Dinesh Asthana. Nor did she make any reference to such acts to anyone between the date of incident and her death. In the absence of such complaints it is not possible to infer that she was being mistreated.

(g) The answers to questions posed by the first C of I to late Capt Meenakshi Bhandari recorded in Command Hospital, Pune, were by means of gestures as she was unable to speak/write. The questions were interpreted by her parents who were present there and they have written down the answers.

(h) The open electric heater which caused the fire, was meant for heating utensils and had no protective grill or cage, such as would be found in a room heater. Hence the heater in the room posed a greater fire risk.

9. In light of the above, we find that the order dated 03.10.2017

has been complied with and full facts of the case have now come to light. Any further inquiry or investigation is unlikely to shed further information on the matter, than what has already been established.

10. In view of the aforesaid observations/discussions, execution application is disposed off.

11. No order as to costs.

12. Pending applications, if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated: 31.08.2021
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	<p><u>31.08.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p style="text-align: center;">Judgment pronounced. Execution Application is disposed off. For order, see our judgment passed on separate sheets. Misc. Applications, pending if any, shall be treated as disposed of accordingly.</p> <p style="text-align: center;">(Vice Admiral Abhay Raghunath Karve) Member (A)</p> <p style="text-align: center;">(Justice Umesh Chandra Srivastava) Member (J)</p> <p>rathore</p>