

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****ORIGINAL APPLICATION No. 132 of 2015**Tuesday, this the 01st day of December 2015**Hon'ble Mr. Justice D.P. Singh, Member (J)**
Hon'ble Air Marshal Anil Chopra, Member (A)No NS-22271X Ex Captain Hema Bist, D/O Warrant Officer
Ratan Singh Bist, R/O E-40 Raghav Bihar, Prem Nagar,
Dehradun.

.....Applicant

Ld. Counsel for the: **Shri K.K. Mishra, Advocate**
Applicant

Versus

1. Union of India through its Secretary, Ministry of Defence,
New Delhi.
2. Chief of Army Staff, Army Headquarters, New Delhi.
3. Director General, Medical Services (Army), AG's Branch,
L Block, New Delhi-110001.
4. Commandant, Command Hospital (Central Command)
Lucknow.
5. Commandant, Military Hospital, Meerut.

...Respondents

Ld. Counsel for the : **Mrs Deepti Prasad Bajpai,**
Respondents **Sr. Standing Counsel assisted by**
Capt Priti Tyagi, OIC, Legal Cell.

ORDER (ORAL)

1. Heard Ld. Counsel Shri P. K. Shukla, holding brief for Shri K. K. Mishra, Ld. Counsel for the applicant and Shri Prakar Kankan, Ld. Counsel for the respondents assisted by Capt. Priti Tyage, OIC., Legal Cell and perused the record.
2. The instant Original Application has been preferred under Section 14 of the Armed Forces Tribunal Act, 2007 seeking directions to upgrade the applicant to medical category SHAPE-1 and also to set aside release order dated 14.01.2014.
3. Preliminary objection raised by Ld. Counsel for the respondents is that the controversy in the present case involves disputed questions of fact and law, as such, the applicant should have preferred statutory complaint so that the same could have been taken into consideration and decided by the appropriate authority keeping in view the factual matrix on record.
4. We agree with the objection raised by Ld. Counsel for the respondents and with the consent of the Ld. Counsel for the parties, dispose of the O.A. without entering into the merits of the case with liberty to the applicant to submit a statutory complaint within two months from today ventilating his grievances. In case such a statutory complaint is preferred by the applicant within the time stipulated hereinabove, the

competent authority shall disposed it of by a speaking and reasoned order expeditiously, say, within four months from the date of presentation of a certified copy of this order along with statutory complaint and communicate decision to the applicant.

5. Subject to above observations the O.A. is disposed of finally.

No order as to costs.

(Air Marshal Anil Chopra)
Member (A)

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

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