

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

SUPPLEMENTARY LIST

2.

MA 5422/2023 IN OA (Appeal) 3274/2023

Ex Nk (TS) Pravendra Singh	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Anand Kumar, Advocate
For Respondents	:	Gp Capt Karan Singh Bhati, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

O R D E R
20.12.2023

A detailed order has been passed today in OA (Appeal) 3274/2023 disposing the same.

2. Respondents have been granted liberty to conclude the proceedings and take a final decision. As the detailed order was dictated in open Court, the parties are aware of the order passed. However, typing of the order and supplying it '*Dasti*' may take two or three days.

3. Keeping in view the aforesaid, based on the order passed today disposing of OA (Appeal) 3274/2023, respondents may proceed treating the order passed on 18.10.2023 in OA (Appeal) 3274/2023 to have been modified and liberty granted to the respondents to proceed and finalize the proceedings in accordance with law.

4. MA 5422/2023 is accordingly disposed of.
5. A copy of this order be provided ***DASTI*** to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)

Neha
MA 5422/2023

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O R D E R
20.12.2023

MA 5422/2023 IN OA (Appeal) 3274/2023

This is an application filed by the Union of India (respondents in OA), wherein, by an interim order passed on 18.10.2023 the following directions were issued:

“ Issue notice to the respondents.

List the matter for analogous hearing along with OA 819/23 on 31.10.2023 at 2.15 P.M. In the meanwhile the proceedings of the Court Martial may go on. The statements recorded shall be maintained in the sealed cover but final order shall not be passed without leave of the Tribunal.

‘DASTI’.”

2. It is now stated in this application that the Court Martial proceedings are over and, therefore, the order passed on 18.10.2023 may be modified.

3. Today during the course of hearing learned Sr. CGSC appearing for Union of India in OA 3274/2023 submitted that very recently after filing of this application, the applicant has pleaded guilty in the trial conducted and, therefore, now the Court Martial proceedings have to proceed from the stage of pleading of guilt by the applicant and a final decision taken by the Court Martial and thereafter a confirmation proceedings have to be held in accordance to the statutory Rule before the Competent Authority. Mr. Anand Kumar, who is the counsel representing the applicant in the OA 3274/2023 and also represents the applicant in the Court Martial proceedings very candidly admits the statement made by the applicant.

4. That being so, once the applicant has pleaded guilty and the Court Martial proceedings have to proceed in accordance with the requirement of the statutory rules and the Competent Authority have to take a final decision in the matter, in our considered view nothing further survives for adjudication by us now in OA 3274/2023 in view of the developments as are indicated hereinabove. However, the applicant in the OA has challenged the proceedings being followed in the Court Martial and have questioned the manner in which process of Court Martial was being held

particularly in the matter of recording of evidence in the light of a principle laid down by the Kolkata Bench of this Tribunal in the case of *Ex Hav/Clerk Rajendra Kumar Mishra Vs. Union of India and Ors.* [TA 211/2010 (W.P. No.3075 (W) 2006) decided on 02.04.2014]. Apart from the challenge made by the applicant in OA 3274/2023, two other applicants in OA Nos.61/2012 and 60/2012 have also challenged the said proceedings and the matter is subjudice before this Tribunal in those two cases. However, as far as the present applicant is concerned now in view of the development that has come into force after pleading guilty by the applicant his right to challenge the process no more survives and, therefore, as far as the present OA 3274/2023 is concerned, in our considered view, the challenge to the same is rendered infructuous in view of the pleading guilty by the applicant. Accordingly, we dispose of the OA in the following manner:

(a) The legal issues raised by the applicant in OA 3274/2023 are left open to be considered and decided as and when required in an appropriate case.

(b) As far as the trial conducted against the applicant is concerned, after recording of the pleadings of guilt, the trial may proceed in accordance with law. The

Court conducting the trial may pass an appropriate order as is permissible under law and thereafter the matter be placed before confirming authority for taking a final decision. Once the final decision is taken by the confirming authority in case the applicant has any grievance, he may challenge the final order in accordance with law before an appropriate forum and the same shall be considered, if required, when challenged.

5. Keeping in view the aforesaid, both MA and OA stand disposed of.
6. A copy of this order be provided ***DASTI*** to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)