

**COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

34.

OA 1261/2019

Col Avinash Mishra Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Nikunj Arora, proxy for
Mr. Ankur Chhibber, Advocate
For Respondents : Mr. Vijendra Singh Mahndiyan, Advocate
Maj A.R. Subramaniam, OIC Legal Cell

CORAM

**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)**

**ORDER
22.07.2024**

On behalf of the respondents, the original Court of Inquiry proceedings in relation to the applicant as well as the exhibits of proceedings of the Court of Inquiry have been submitted which are taken on record.

2. It is pointed out on behalf of the respondents that Exhibit (S) forming part of the record is a CD which is placed on record. Copy of the Court of Inquiry has been submitted on record in one set, one more set of the same be submitted by the respondents during the course of the day which be placed in a sealed cover. The Exhibit (S) submitted be placed in a sealed cover. Furthermore, the respondents submit that they have not opened the Exhibit (S) i.e. CD thus, copies of the same have not been

submitted. The aspect of the submission of the same shall be considered on perusal of the same. The same be placed in a sealed cover.

3. Submissions have been addressed on behalf of the respondents. During course of submissions on behalf of the respondents a reference is made to para 29 of the Additional Directorate General, Discipline and Vigilance (DV-1) Policy No. 46440/AG/DV-1 dated 29.08.2013 to submit to the effect that the respondents in the Court of Inquiry proceedings are in no way bound by the rules of evidence. The said policy be produced by the respondents on the next date of hearing.

4. Furthermore, the respondents have also placed reliance on the order dated 08.05.2023 in OA 1072/2022 of Hon'ble Court No. 1, AFT, Principal Bench, New Delhi in which vide Para 2 thereof, reference was made to the Ministry of Communication and Information Technology notification dated 24.07.2013, a copy of which be also placed on record by the respondents on the next date of hearing. During the course of submissions made on behalf of the respondents whilst placing reliance on the order dated 08.05.2023 in OA 1072/2022 of *Lt Col Krishna Bhandari vs. Union of India & Ors.*, the respondents seek to urge that it is open to this Tribunal to call for the examination of the CD Exhibit

(S) as done vide order dated 08.05.2023 in OA 1072/2022, if required.

5. The matter be re-notified for hearing on 12.08.2024 at 2:15 P.M.

**(JUSTICE ANU MALHOTRA)
MEMBER (J)**

**(LT GEN C.P. MOHANTY)
MEMBER (A)**

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