

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

1.

OA 522/2025

Hav Deepak Kumar Dwivedi
Thru his Pairokar wife Preeti Dwivedi Applicant
VERSUS

Union of India and Ors. Respondents

For Applicant : Mr. Shubham Kumar, Advocate
For Respondents : Mr. Anil Kumar Gautam Sr CGSC
Maj Satvik Grover, OIC Legal Cell

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
07.03.2025

The applicant vide the present OA makes the following prayers:

“8A. Conduct the Court Martial proceedings in Delhi, Jammu, Udhampur, or any other major city or location that is not affected by militancy, ensuring the Applicant's access to legal practitioners with substantial experience in military law enabling him to obtain the necessary legal assistance at an affordable rate undue hardship and mitigate the exorbitant costs associated with the proceedings.

8B. Make the necessary arrangements to facilitate the appearance of the lawyer the Applicant intends to retain via video conferencing if the above mentioned first relief is not possible conferencing because due to significant security challenges, it would be highly difficult and prohibitively expensive for the Applicant to arrange for the lawyer's physical presence at the location.

8C. Award an appropriate amount to the applicant to cover legal expenses incurred in pursuing this matter,

8D. Grant suitable compensation for the immense mental trauma, agony, and hardship endured by the applicant, as a result of the respondents' actions;

8E. Pass any other order or relief as this Learned Tribunal may deem fit, just, and proper in the interest of justice and equity.

And for this act of kindness and justice, the applicant, as in duty bound, shall ever pray.

2. Along with the same is also a prayer seeking grant of interim relief to the effect:-

“Pending the adjudication of the present proceedings before this Learned Tribunal, it is humbly prayed that interim relief be granted in the form of a stay on the Court Martial proceedings against the Applicant in Kupwara, Jammu and Kashmir. This relief is sought in the interest of justice and to safeguard the Applicant's fundamental rights enshrined under Article 21 of the Constitution of India.”

3. Vide order dated 27.02.2025, notice was issued to the respondents and in relation to the interim prayer relief prayed by the applicant, the respondents were directed to submit the short response, the short affidavit dated 05.03.2025 has been submitted by the respondents.

4. At the outset a submission is made on behalf of the respondents that in as much as the prayer 8(A) of the applicant had sought the conducting of the Court Martial proceedings in Delhi, Jammu, Udhampur or any other major city or location that

is not affected by militancy, ensuring the applicant's access to legal practitioners with substantial experience in military law enabling him to obtain the necessary legal assistance at an affordable rate and to prevent undue hardship and mitigate the exorbitant costs associated with the proceedings, the respondents have no objection to the conducting of the Court Martial proceedings in Srinagar.

5. It is further submitted on behalf of the respondents that Srinagar itself is a major city where the Hon'ble High Court of Jammu and Kashmir is located and where there is also a Circuit Bench of the AFT.

6. Counsel for the applicant does not oppose the proposal put forth on behalf of the respondents for shifting of the Court Martial proceedings in relation to the applicant Hav Deepak Kumar Dwivedi No. 15686920H at Srinagar.

7. In the circumstances, in the interest of justice the Court Martial proceedings from today onwards at 11.30 a.m. qua the applicant Hav Deepak Kumar Dwivedi No. 15686920H are directed to be shifted from Kupwara to Srinagar and till the date the Court Martial proceedings in Srinagar commence, henceforth there shall be no Court Martial proceedings conducted at Kupwara.

8. In view of the prayer clause 8(A) having been disposed of hereinabove, the OA calls for no further action.

9. The order hereinabove be not treated as a precedent and is in the special circumstances of the case.

Copy of this order be served *DASTI* on either side for compliance.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

Yogita