

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

54.

OA 3116/2024

LAC Sumit Singh Rathour Applicant
Versus
Union of India & Ors. Respondents

For Applicant : None
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R
07.05.2025

Invoking the jurisdiction of this Tribunal under Section 14, the applicant has filed the present application.

The relief claimed in Para 8 reads as follows:

- (a) To issue order or direction quashing the impugned Clause 11 of Air Forces Instruction 1/19 dated 02.09.2019.*
- (b) To issue order or direction quashing the impugned Discharge Policy issued vide Signal No. 2020/AFRO/RRD/824 Dated 05 Oct 20;*
- (c) To issue order or direction commanding the respondents to issue discharge order as per Air Force Instruction dated 12/5/48;*
- (d) In alternate, to issue order or direction commanding the respondents to discharge the applicant in view of the Rule 15(2) (g) (ii);*
- (e) Award the cost of litigation Rs. 500000.00 (Rs Five Lakhs only) in favour of the Applicant.*

2. From the aforesaid, it is clear that the applicant has challenged the discharge policy of the respondents and has

also called into question the so called discharge order said to have been passed against the applicant. From the records, we find that after the discharge order was passed, the applicant's case was taken up, and a District Court Martial (DCM) was conducted on the ground that he was a deserter. Based on the findings recorded during the trial, the applicant was subsequently dismissed from service following the conclusion of the District Court Martial (DCM).

3. Therefore, since the applicant has already been dismissed from service on the basis of the DCM, the present application challenging the discharge order has become infructuous. The applicant must now challenge the subsequent action as is evident from the record specifically, the speaking order /discharge order dated 20.09.2024 brought on record,

4. Accordingly, liberty is granted to the applicant to challenge these orders in accordance with law.

5. With the aforesaid, the OA stands disposed of.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[REAR ADMIRAL DHIREN VIG]
MEMBER (A)**

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