

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

28.

OA 3601/2025

Sgt Tumma Santhosh Kumar Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ansh Narayan Tripathi, Advocate
For Respondents : Wg Cdr Gagan Sharma, Deptt. Rep.
Sgt Nand Lal, Deptt. Rep.

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

O R D E R
13.11.2025

OA 3601/2025

Heard on the question of admission.

2. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application calling in question tenability of show cause notice issued to the applicant on 15th October, 2025 vide annexure A-1.

The prayer made in Para 8 reads as under:-

“(a) Quash and set aside the impugned Show Cause Notice dated 15 October 2025, issued by Respondent No.2, being violative of Rule 156(2) of the Air Force Rule, 1969 and Para 790(e) of the Air Force Regulations.

(b) Declare the proceedings of the Court of Inquiry (CoI) conducted against the Applicant as illegal, void ab initia, and of no evidentiary value, having been initiated and conducted in breach of mandatory procedural safeguards and principles of natural justice.

(c) Restrain the Respondents from taking any adverse action against the Applicant, including dismissal, discharge, or denial of pensionary benefits, pursuant to the impugned CoI or Show Cause Notice till the outcome of the case at this Hon'ble Tribunal.

(d) Direct the Respondents to furnish the complete CoI record and all material relied upon, including digital evidence, to the Applicant forthwith, and afford him a fair opportunity to respond, if any further proceedings are contemplated.

(e) Direct the respondent to conduct fresh Court of inquiry with camara proceeding which conducted in many cases of court of inquiry in Indian Air Force for fair and impartial investigation.

(f) Grant any other relief(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice.”

3. Respondents raised a preliminary objection to say that at this stage when only a show cause notice has been issued, without submitting his reply to the show cause notice the applicant has approached this Tribunal. They submit that at this stage the application is not maintainable.

4. Learned counsel for the applicant argued that administrative action is being taken against the applicant under Section 23 of the Air Force Act read with Rule 160(a) of the Air Force Rules 1969 and the show cause notice is being issued on the basis of a report submitted after a Court of Inquiry. It is tried to be argued that the Court Of Inquiry is not properly conducted. The relevant rules applicable have not been followed and in a arbitrary and illegal manner based on the findings recorded in

court of inquiry, the impugned show cause notice has been issued.

5. The applicant is a Sgt in the Indian Air Force and his wife submitted a complaint to the Competent Authority to the effect that the applicant is involved in an illicit relationship (extra marital affair) with wife of a co-employee working as JWO in the Indian Air Force. The complaint was submitted by the wife of the applicant on 21.07.2024. That apart, it was also reported against the applicant that he was involved in online gambling and betting in violation to the provisions contained in Regulation of the Air Force 564, 574 and Station Standing Order Para 35 of the Air Force Station, New Delhi and violation of certain Statutory Rule and on the basis of a case made out in the Court of Inquiry, instead of conducting a full fledged trial into the matter, administrative action for dismissal is being initiated against the applicant and the show cause notice issued. Instead of replying to show cause notice and permitting the competent authority to evaluate all his objections the applicant has invoked jurisdiction of this Tribunal directly.

6. Having gone through the facts and circumstances of the case, we are of the considered view that interference in this matter at this stage is not called for particularly when only a show cause notice is issued to the applicant. The applicant can very well raise all the objections as are contained in this petition

in his reply to the show cause notice and in the first instance it would be for the Competent Authority to evaluate the material and in case there is any violation of the Air Force Rules in conducting of the Court Of Inquiry in any manner whatsoever, the Competent Authority is well within his jurisdiction under the Statutory provisions contained in the Air Force Act and the Air Force Rules to direct for appropriate action to be taken. That being so, it is not appropriate for this Tribunal to step into the shoes of the Competent Authority and evaluate objections raised in this petition, instead it would be appropriate for the applicant to first show cause to the notice issued and thereafter invoke the jurisdiction of this Tribunal in case he is still aggrieved by the action taken.

7. However, as far as prayer clause 8 (d) in the matter of furnishing the complete record of the Court of Inquiry and other documents are concerned, on a query being made, learned counsel for the respondents submits that respondents did make effort to supply the applicant the copies of the Court of Inquiry but as per rule certificate and other requirements of the rule were not fulfilled by the applicant, as a result of the same, the same is not provided.

8. Having heard all the parties with regard to Prayer 8 (d), we direct that in accordance with the statutory rules applicable, particularly, rule 156 (6), 156 (7) and 156 (8) of the Air Force

Rules, 1969 and the procedures regulated and formulated therein, on the applicant complying with requirement in the matter of supply of Court of Inquiry and its paper, Court of Inquiry and papers should be supplied to the applicant before the submission of reply to the show cause notice. However, in case the applicant refuses to the comply with the statutory rules in the matter of issuance of proceedings of Court of Inquiry, respondents are free to take action in accordance with law.

9. With the aforesaid, the application stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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