

#16 (At 02:00 p.m.)

COURT NO. 2, ARMED FORCES TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

O.A. No.57 of 2012 with M.A. Nos.109 & 110 of 2012

IN THE MATTER OF:

Cpl. Nitish Kumar

.....Applicant

VERSUS

Union of India & Ors.

.....Respondents

Dated: 29.02.2012

Present: Mr. Shiv Ram Singh, counsel for the applicant.
Mr. Ajai Bhalla, counsel for the respondents.

Heard and perused the record.

Learned counsel for the respondents states that against the DCM findings and judgment while dealing with the confirmation proceeding, the confirming authority has modified the judgment and has maintained finding and sentence vide order dated 28.02.2012. He also submitted a copy of the said order for perusal. For ready reference relevant portion of the order dated 28.02.2012 is reproduced hereunder:

"I confirm the finding and sentence of the court, but remit such portion of the punishment of Rigorous imprisonment as would remain unexpired on the date of promulgation.

Singed at Vayu Sena Nagar this the Twenty Eighth day of February, 2012."

Learned counsel for the respondents further states that in such a situation the present O.A. is not maintainable and the M.A. filed along

with O.A. with regard to suspension of the sentence has also become infructuous. Copy of the order dated 28.02.2012 is also supplied to learned counsel for the applicant.

Learned counsel for the applicant, at this stage, considering the facts of the case wants to withdraw the present O.A. with liberty to file fresh application after obtaining the DCM proceedings and confirmation order passed thereon. He also does not press his MAs at this stage. Learned counsel for the applicant states that he has also applied for supplying of the DCM proceedings. Learned counsel for the respondents states that same will be supplied in due course.

Considering submission of learned counsel for the applicant, the present O.A. is dismissed as withdrawn with the aforesaid liberty. Filing of this O.A. will not come in his way.

MAs filed along with O.A. also stand disposed of. No orders as to costs.

M.L. NAIDU
(Administrative Member)

MANAK MOHTA
(Judicial Member)

Dated: 29.02.2012
rsk