

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

83.

OA 2960/2023 with MA 4720/2023

Lt Col Rajpal Singh

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

: Mr. Abhay Kant Upadhyay &  
Mr. Madan Pal Vats, Advocates

For Respondents

: Gp Capt Karan Singh Bhati, Sr CGSC  
Maj A. R. Subramaniam, OIC, Legal Cell

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN C. P. MOHANTY, MEMBER (A)

ORDER

10.11.2023

MA 4720/2023

For the averments made in the application, delay in filing the counter affidavit is condoned. Counter affidavit is taken on record.

2. MA stands disposed of.

OA 2960/2023

3. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal, 2007, applicant has filed this application and seeks quashing of the disciplinary proceedings initiated against the applicant which is pending before the Competent Authority. It is the case of the applicant that the complaint filed against the applicant and the disciplinary proceedings initiated against him is

barred by the period of limitation prescribed under Section 122 of the Army Act, 1950.

4. Facts in brief indicate that a complaint was received against the applicant on 23<sup>rd</sup> March, 2018 wherein allegations were made against the applicant by one Maj Abhimanyu Madineni to the effect about defrauding of approximately Rs. 28,00,000 (Rupees Twenty eight lakh only) by the applicant and further demand of Rs. 2,00,000/- (Rupees Two lakh only) to influence a Selection Board constituted for the purpose of grant of Permanent commission. On the same, disciplinary proceedings has been initiated and from the counter affidavit filed it is seen that based on the complaint the following allegations are being inquired into.

- "a. While serving with 20 RAJ RIF wef 10 Sep 17 to 03 Feb 18, the Applicant persuaded and lured him to invest in a private company, 'Rich Hands Pictures Ltd'.
- b. The Applicant coerced him to invest a total sum of Rs 28,60,000/-
- c. The Applicant promptly assured of regular returns on greular scheduled dates of the scheme.
- d. The Applicant charged 10% of the returns as taxation and commission charges.
- e. Applicant offered to influence the grant of permanent commission to him.
- f. The Applicant asked him to pay Rs 2,00,000/- to be paid to Chairman of Permanent Commission Interview board.
- g. The Applicant has been involved in cheating and money laundering even inpast."

5. The Court of Inquiry i.e., the preliminary investigation indicated a prima facie case made out against the applicant and based on the same now a disciplinary proceeding has been initiated and in accordance to the Statutory Rules and Regulations summary of evidence is going on.

6. As the disciplinary proceeding is at the preliminary stage and only a summary of evidence is gone and after the summary of evidence, if required, the Competent Authority has to decide as to whether the Court Martial is to be held or not and at the stage of conduct of the Court Martial, applicant will have liberty to raise plea of bar and all objections pertaining to limitation which can be adequately dealt with at that stage as the issue of limitation is a mixed question of law and facts, it can be more appropriately dealt with by the Competent Authority at the relevant time.

7. Accordingly, granting liberty to the applicant to raise the grounds at the stage when the Court Martial is held or before the Competent Authority after summary of evidence is recorded, if required, we dispose of the matter.

[RAJENDRA MENON]  
CHAIRPERSON

[C. P. MOHANTY]  
MEMBER (A)

Priya