

COURT NO. 1
ARMED FORCES TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

1.

MA 1933/2025 IN OA DY No. 4009/2025

Maj Gen Devendra Arora	Applicant
Versus		
Union of India & Ors.	Respondents
For Applicant	:	Mr. S S Pandey, Advocate
For Respondents	:	Dr. Vijendra Singh Mahndiyan, Advocate Col Gaurav Verma, Col Litigation and Maj A.R. Subramaniam, OIC Legal Cell

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

ORDER
07.05.2025

MA 1933/2025

Invoking the jurisdiction of the undersigned under Rule 6 of the Armed Forces Tribunal (Procedure) Rules, the applicant a (Retd) Major General in the Army Medical Corps of the Indian Army, lastly posted at the Army Institute, Pune, seeks permission to file the Original Application under Section 14 of the Armed Forces Tribunal Act, 2007.

2. It is seen from the records that a Court of Inquiry (COI) was convened against the applicant by Headquarters 16 Corps, Nagrota (J&K), in relation to certain acts of commission and omission allegedly committed by him while he was posted at 166 Military Hospital. The COI found a

prima facie case against the applicant concerning irregularities in procurement and other alleged illegalities. Based on the findings of the COI, disciplinary proceedings were initiated against him and certain others.

3. In view of his retirement, disciplinary proceedings are initiated after invoking the provision of Section 123 of the Army Act, 1950; these proceedings are pending within the territorial jurisdiction of the Armed Forces Tribunal, Regional Bench, Srinagar at Jammu.

4. The applicant submits before this Tribunal that he intends to settle in Gurgaon after retirement, which falls under the territorial jurisdiction of the Principal Bench of the Armed Forces Tribunal at New Delhi. He, therefore, seeks permission to file the Original Application before the Principal Bench at New Delhi. In the proposed application, the applicant seeks to challenge the disciplinary proceedings and the charges initiated against him, as well as the proposed disciplinary action, and also pray for his release from military custody.

5. The records indicate that the applicant, pending disciplinary proceedings, has been taken into military custody for the purpose of conducting disciplinary action. Normally, in an application under Rule 6 of the Armed Forces Tribunal

(Procedure) Rules, 2008, this Tribunal takes a liberal view while considering the applicant's request to file the matter before a bench of his choice. However, in the present case, the respondents have raised serious objections to the grant of such permission.

6. The applicant relies upon the law laid down by the Full Bench of the Tribunal in the case of Capt. G. Vivekanand Vs. Union of India & Ors., [OA No. 460/ 2015 decided on 11.09.2015] wherein it has been held that an applicant has a right to choose the place of filing of an application. However, respondents have filed a detailed objection contending that the applicant cannot seek permission to file the application before the Principal Bench at New Delhi, as the cause of action has arisen within the territorial jurisdiction of the Regional Bench at Srinagar at Jammu.

7. The records reveal that the alleged offences were committed during the applicant's posting at 166 Military Hospital, and COI was convened by Headquarters 16 Corps, Nagrota (J&K). The disciplinary proceedings are being conducted within the jurisdiction of the Srinagar Bench at Jammu.

8. The respondents, in their detailed counter affidavit, have objected to the maintainability of the present application at the Principal Bench and argued that the applicant's claim of convenience does not override the principles laid down with regard to the law on territorial jurisdiction as held in the following cases:-

a) (2020)19SCC380 Calcutta Gujrati Education Society vs Regional Provident Fund Commissioner & Ors; OA No 2329 of 2024.

b) Col Annu Dogra vs Uol (AFT (PB) New Delhi) order dated 16 Jul 2024. (1999) 9 SCC 29 Sarabjit Kaur vs Uol and Ors.

9. On the other hand, the applicant, in Para 3 of his application, submits that he has retired from service on 30.04.2025 and has decided to settle in Gurgaon, which falls within the jurisdiction of the Principal Bench, New Delhi. It is, therefore, contended that it would be convenient for him to prosecute the case from Gurgaon, especially since his wife would be able to monitor the proceedings more effectively from there. He further contends that for the present at least, his bail application should be considered by the Principal Bench, New Delhi.

10. It is also submitted that the Jammu Bench is presently not functioning, and hence, the matter should be heard at

New Delhi. However, this Tribunal takes judicial notice of the fact that even though the Srinagar Bench (sitting at Jammu) does not function continuously; both regular matters and urgent cases of this Regional Bench is being taken up by the Regional Bench at Chandigarh, both through video conferencing (VC) and physical hearings for one week or ten days every month. Furthermore, urgent matters of the Jammu Bench are being considered by the Regional Bench at Chandigarh.


11. For urgent matters, video conferencing is available, and the Regional Bench at Chandigarh is well-equipped and regularly disposes of urgent cases relating to the Srinagar Bench at Jammu. Thus, the argument of inconvenience does not hold merit in the facts of the present case.

12. Taking into account various factor with regard to functioning of this Tribunal on account large number of vacancy of Judicial Member and the fact that over 10,000 matters are pending before the Principal Bench at New Delhi, and since the Regional Bench at Chandigarh is effectively handling urgent matters of the Jammu Bench, I find no reason to grant the applicant permission under Rule 6 to file the application before the Principal Bench.

13. Accordingly, the application is rejected. The OA presented before this Bench is directed to be returned to the applicant.

14. The applicant may make a request/prayer by email to the Registrar/Joint Registrar/Deputy Registrar, AFT, Jammu, for an early hearing, and the Presiding Judge at Regional Bench, Chandigarh, may consider the request and fix an urgent virtual hearing of the matter, if so warranted.

15. With the aforesaid observations, the MA stands disposed of. "order dasti"


[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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MA 1933/2025