

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

15.

OA 1899/2025 with MA 2710/2025

LAC Virender Choudhary through his Wife Smt. Surata Devi  
..... Applicant

Versus

Union of India & Ors. .... Respondents

For Applicant : Mr. Durgesh Kumar Sharma , Advocate  
For Respondents : Mr. Kumar Gaurav, Advocate

CORAM

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

ORDER  
03.07.2025

Challenging a show cause notice issued vide Annexure A-1 on 20.05.2025 the applicant has filed this Application and seeks quashing of the show cause notice. In the show cause notice issued to the applicant, in para 2 and 3 the following reasons have been indicated for which the show cause notice has been issued and the applicant has been directed to give his reply as to why on these grounds the applicant should not be discharged:-

*"2. And whereas, you have completed more than 11 years of service as on 31 Jul 24. You have availed two chances out of three available chances for clearing of Corporal Promotion Examination (CPE) in Jan-Jun 18 cycle and Jan-Jun 23 cycle but failed to clear the same on both the occasions. Despite having one more chance, you have not applied for Corporeal Promotion Exam.*

*3. And whereas, it has been observed that despite having reasonable opportunities for clearing the Corporal*

*Promotion Examination, you have failed to clear the same within stipulated timeframe and available chances and did not avail third chance. You have shown lack of tactical approach towards service by not clearing CPE and not availing third available chance. Thus, by not clearing CPE in two chances and deliberately not availing third available chance, your case squarely falls in the category of unsuitable for retention in the IAF.”*

2. Instead of filing reply to the show cause notice, the applicant has invoked the jurisdiction of this Tribunal and by raising various grounds wants this court to examine those grounds in the backdrop of the Air Force Orders and the Rules and quash the show cause notice. In our considered view, at this stage when only a show cause notice is issued, this Tribunal cannot step into the shoes of the competent authority, evaluate the reasons given by the applicant and decide the validity of the show cause notice. On the contrary, it is a well settled principle of law that when a show cause notice is issued until and unless the issuance of the show cause notice itself is *per se* unsustainable in law interference should not be made. The applicant tried to explain on what grounds his discharge is unsustainable in law and they are facts which are to be analysed by the competent authority and a decision taken. Nothing is brought to our notice on the basis of which issuance of the show cause notice itself can be said to be contrary to any statutory rule or regulation, illegal or arbitrary.


3. That being so, we are not inclined to examine the merits of the contention advanced by the applicant in reply to the show cause notice before us in this OA and decide the issue on merits. This would amount to usurping the jurisdiction of the competent authority which has issued the show cause notice and exercise jurisdiction of this Tribunal which is not permissible in law. Accordingly, we direct the applicant to submit his reply to the show cause notice and at the first instance it would be for the competent authority to take note of the same and take a decision and thereafter in case the applicant has any grievance, he may invoke the jurisdiction of this Tribunal. At this stage, when only a show cause notice is issued, we do not see any reason to interfere into the matter.

4. During the course of hearing of the matter, respondents relied upon an order passed by this Bench very recently on 27.02.2025 in OA No.947/2022 and batch (*LAC Manoj Kumar v. Union of India & Ors.*) wherein applications pertaining to issues that were somewhat similar in nature and were based on the interpretation and tanability of Air force instructions 1/2019 was considered and petitions dismissed. The applicant submits that the said cases are different from that of the present applicant and, therefore, the said case cannot be applied herein. All these are factors and objections should be raised by the applicant before the competent authority and not

before this Tribunal. Accordingly, as only a show cause notice has been issued to the applicant and a final decision can be taken by the competent authority only after applicant submits his reply to the show cause notice, we are not inclined to interfere into the matter at this stage. The applicant may reply to the show cause notice and thereafter when a decision is taken by the competent authority, in case the applicant has any grievance, he may ventilate the same afresh in accordance with law as permissible.

5. With the aforesaid finding, no case is made out for interference. At this stage, the OA is dismissed.

6. No order as to costs.

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

  
[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

/vb/