

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

2.

OA 2531/2025 WITH MA 3500/2025

LAC Virender Choudhary Applicant
thru his wife Smt. Surata Dei
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Durgesh Kumar Sharma,
Advocate
For Respondents : Mr. R.S. Chillar, Advocate

CORAM

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

ORDER
28.08.2025

Invoking the jurisdiction of this Tribunal under section 14 of Armed Forces Tribunal Act 2007, the applicant has filed this application and the relief claimed in Para 8 reads as under:-

“(a) To set aside the application for discharge of applicant under progress on AFRO Site dated 24 July 2025 (Annexure A-1 Impugned order) and all other proceedings/orders of respondents emanating from said application for discharge in progress as a consequential of Show Cause Notice dated 20 May 2025 in the interest of justice.

(b) To direct the Respondents to allow the applicant to continue in service till his discharge/ completion of his initial terms of engagement of 20 years in the interest of justice.

(c) To pass such further order or orders, direction/ Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.”

2. Further, MA 3500/2025 has been filed seeking ex-parte interim order for stay of the purposed action for discharge against the applicant (Annexure A-1). Facts in brief indicate that the

applicant had earlier approached this Tribunal by filing OA 1899/2025, and at that point of time the applicant challenged the show cause notice (Annexure A-1 to OA 1899/2025) issued to him on 20.05.2025. We considered the prayer of the applicant, took note of the allegations made in the show cause notice and found that the applicant had completed eleven years of service as on 31.07.2024, he did not pass the Corporal Promotion Examination after availing two of the three available chances and in spite of having one more chance, he did not apply or participate in the Corporal Promotion Examination. Be that as it may, we found that at the stage of issuance of show cause notice it was not proper for this Tribunal to interfere into the matter. On the contrary, we were of the considered view that as final decision on the show cause notice was to be taken by the Competent Authority only after the applicant submitted his reply, we were not inclined to interfere into the matter.

3. Accordingly, we disposed of the OA granting liberty to the applicant to reply to the show cause notice and thereafter when the Competent Authority takes a decision in the matter, in case the applicant had any grievance still subsisting, he may ventilate his grievance in accordance with law. Immediately after submitting his reply to the show cause notice on 03.07.2025 vide Annexure A-14, it is seen that the applicant sought for an information in an online search in the website of the respondents with regard to the status of applications pending. It was indicated

that the applicant has submitted his reply to the show cause notice on 24.07.2025 and the matter is still pending for discharge.

4. Instead of waiting for the Competent Authority to take a final decision in the matter on the ground that applicant would be discharged without considering his reply to the show cause notice, the applicant has again invoked the jurisdiction of this Tribunal and wants the decision on merit. In our considered view this application by the applicant is the misuse of the process of law. When in the earlier round of litigation, i.e., orders passed on 03.07.2025, while disposing of his earlier OA, we had specifically indicated to the applicant that he should submit his reply to the show cause notice and when the applicant submitted his reply to the show cause notice on 03.07.2025, he again invoked the jurisdiction of this Tribunal on the ground that on 01.08.2025, when he checked the status of his application, it was found that it is pending and discharge is under process. However, it is an admitted position that no final decision on the show cause notice has yet been taken by the competent authority.

5. That apart records indicate that again the order passed by this Tribunal in the earlier round of litigation in OA 1899/2025, when this Tribunal disposed it of vide order passed on 03.07.2025, the applicant challenged the same before the Hon'ble High Court by filing a Writ Petition bearing WP(C) No.11942/2025, and on 08.08.2025, took leave to withdraw the

writ petition and the writ petition was disposed of as withdrawn. The writ petition was withdrawn without any liberty being granted to the applicant.

6. After withdrawing the Writ Petition on 14.08.2025, this application has been filed. In our considered view this application, at this stage, when a final decision on the show cause notice based on the objection raised by the applicant, is yet to be taken, no case is made out for interference by this Tribunal. We have already rejected prayer of the applicant and we have already recorded a finding that at the stage of issuance of show cause notice this Tribunal cannot step into the shoes of the Competent Authority who has issued the show cause notice and interfere into the matter. This position remains the same as final decision by the Competent Authority on the show cause notice issued after filing the reply by the applicant is yet to be taken.

7. Shri Durgesh Kumar Sharma, learned counsel for the applicant tried to argue on the merit of the case. These issue has already considered in the previous round of litigation, we are thus not inclined to consider the issue on merit at this stage. That being so we find no ground into the matter. The OA is accordingly dismissed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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