

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

6.

OA 3609/2025

LAC Sarth Kumar Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Arvind Kumar, Advocate
For Respondents : Gp Capt Karan Singh Bhati, Sr. CGSC

CORAM

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

ORDER
14.11.2025

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal 2007, the applicant has called into question the tenability of a show cause notice (Annexure A1) dated 26.05.2025 and seeks its quashing. The show cause notice as indicated was issued on 26.05.2025. The applicant has not yet submitted his reply to the notice even after more than six months and seeks quashing of the charge sheet primarily on the ground that the proposed discharge is unsustainable in view of his exemplary service profile and because he was misguided by staff regarding availing the last remaining chance to appear in the examination. He further contends that his grievances have not been properly considered and the show cause notice proposing discharge is issued without application of mind and is unsustainable in law on various grounds. In support of his proposition that discharge based on such a notice is unsustainable

he relies on the judgment of the Hon'ble Supreme Court in *Satbir Singh v. Chief of Army Staff*, (2009) 4 SLR 164 (Del).

2. On advance notice at the stage of admission the respondents represented by Mr. Karan Singh Bhati, learned Sr. CGSC raises a preliminary objection regarding maintainability of the application. They submit that the applicant instead of replying to the show cause notice and submitting his defence before the competent authority has directly approached this Tribunal after about six months seeking quashing of the charge sheet which is not permissible in law. The respondents pray for dismissal of the OA at this stage.

3. Having heard learned counsel for the parties it is seen that the applicant was posted to the strength of 7 Sqn AF with effect from 27.01.2020. He was detailed to undergo re-mustering training in the Auto Technical Trade on 18.10.2024 and the allotted trade training commenced on 04.11.2024. While undergoing training on 29.01.2025 he was found indulging in acts of indiscipline, violating orders and instructions of the competent authority. His acts of indiscipline are detailed in Page 35, para 3(a), (b), (c), and (d). They read as under:

(a) Keeping and plying two wheelers which is on his father's name without obtaining vehicle permission, though he possesses a valid driving license.

(b) Consuming liquor in billets.

(c) Ignoring the medical disposal of ED (Excuse Duty) given by Medical Officer after Sick Report and going outside the camp to his home which is 17 Kms away.

(d) Going outside the camp on training day without book-out and without consulting/permission from superior authorities.

Owing to these acts, a Station Review Board was convened on 03.03.2025 and the Board recommended his return from training on disciplinary grounds.

4. The show cause notice was thereafter issued detailing these acts of commission and omission and referring to Para 27 of the Re-Muster Policy indicating that he would not be granted a second chance to undergo re-mustering training as he had been returned on disciplinary grounds. He was accordingly asked to show cause why having been found unsuitable for retention in Air Force service under Rule 15(2)(g)(ii) of the Air Force Rules, 1969 and having failed to pass the CPE examination in his mustered trade as well as the re-mustering training he should not be discharged.

5. Instead of replying to the show cause notice and justifying his actions or submitting an explanation the applicant has directly invoked the jurisdiction of this Tribunal. A perusal of the Re-Muster Policy (Annexure A2) dated 24.10.2019 shows detailed procedures governing re-mustering. According to the respondents' counsel the entire action has been taken strictly in accordance with this policy. Since the only issue before this Tribunal is whether interference is warranted at the stage of a show cause notice, it is inappropriate to examine the policy in detail or to adjudicate on the merits. The procedures for counting


of charges, action to be taken for acts of indiscipline during training, constitution and functioning of SRMB and other steps are all governed by the rules. In these circumstances it is first necessary for the applicant to respond to the show cause notice and it is for the competent authority to evaluate all aspects and take a final decision thereafter.

6. The law regarding interference by a Court at the stage of a show cause notice is well settled. Interference is permissible only when statutory rules or regulations are violated or when the action is arbitrary or unreasonable. In the present case nothing has been shown that would justify interference at this stage. It is not appropriate for this Tribunal to step into the shoes of the competent authority, evaluate the applicant's defence as projected in the OA and decide the matter on merits as this would amount to usurping the authority of the body lawfully empowered to decide the show cause notice. The applicant must present all his defences and grievances before the competent authority who must first consider and decide them. Only thereafter can the jurisdiction of this Tribunal be invoked. Moreover, the judgment in *Satbir Singh* (supra) does not assist the applicant. That case involved a challenge to a final discharge order after the applicant therein had submitted his defence to the show cause notice. The Court held the final discharge order unsustainable on the specific facts of that case. It does not lay down a principle that a proposed discharge can be quashed at the stage of the show cause notice itself. As the facts of the present case are entirely different, the

said judgment is of no assistance to the applicant. Since there are serious allegations of indiscipline against the applicant during training and the respondents have acted as per the relevant policies and Air Force Rules 1969, we find no reason to interfere.

7. Finding no case for interference at this stage the application is dismissed. We make it clear that we have not looked into the merits of the case and any remarks on the merits should be ignored as they are only for deciding whether interference is needed at this stage. The competent authority shall consider the applicant's reply to the show cause notice strictly on its own merits and uninfluenced by any observation in this order and shall take a final decision in accordance with law.

8. The OA is disposed of accordingly.



[JUSTICE RAJENDRA MENON]
CHAIRPERSON



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

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