

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

59.

OA 4250/2024

Shri Mohinder Gaur F/o Applicant
Late Major Aashirwad Gaur
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Anand Kumar, Advocate
For Respondents : Mr. Neeraj, Sr. CGSC with
Mr. Rudra Paliwal, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
13.05.2025

The applicant has invoked the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, and has filed this OA seeking the following reliefs as detailed in Para 8:

- a) *To direct Respondents No. 3, 4, and 5 to supply the applicant with a complete set of true certified copies of the Court of Inquiry (CoI) proceedings, including its findings and opinion, which was conducted to investigate the circumstances under which IC-79660W Maj Aashirwad Gaur of 204 Army Aviation Squadron (UH), the son of the applicant, was declared dead at 162 Military Hospital on 19/09/2023.*
- b) *Direct the Respondent No. 3 & 5 to supply him true certified copy of the (a) AGIF Nomination, (b) DSOP Form of Nomination (c) Copy of WILL (d) Declaration Form for Change of NOK, if any (e) Nomination for Death-cum-Retirement of Gratuity and/ or*
- c) *To pass any other just and equitable order in the interest of justice.*

2. The applicant is the father of Late Major Aashirwad Gaur, who was commissioned into the Indian Army in the

Artillery on 13.12.2017 and was declared dead at 162 Military Hospital on 19.09.2023. From Para 4.2 onwards in the OA, the applicant narrates certain facts and circumstances which, according to him, suggest the involvement of certain individuals in the death of his son, which he claims was a suicide.

3. As per the records, in order to ascertain the cause of death of the applicant's son, a Court of Inquiry was convened, witnesses were examined, and findings were recorded. The applicant, in his pleadings, holds his daughter-in-law, Mrs. Shruti Parashar (wife of Late Maj Aashirwad Gaur), responsible for the incident suggesting a backdrop of matrimonial discord.

4. The applicant seeks the Court of Inquiry (CoI) documents for the purpose of pursuing civil proceedings, wherein FIR No. 127/2003 has also been lodged against the wife of the deceased under Sections 120(B) read with 302 IPC.

5. Upon notice being issued, learned counsel for the respondents relied on Army Rule 184(2) as amended by SRO 44 dated 24.01.1984, to argue that the applicant is not entitled to the CoI proceedings. However, Mr. Anand Kumar, learned counsel for the applicant invited the Tribunal's

attention to a letter bearing No. 46440/AG/DV-IP dated 29.08.2013, particularly Para 46 of the policy which addresses disclosure of proceedings. Clause (c)(iii) of the said policy provides as under:

46. Disclosure of Proceedings.

(a) Army Rule 184(2), as amended vide SRO 44 dated 24 Jan 84, stipulates that any person subject to the Army Act whose character or military reputation is affected by the evidence before a C of I shall be entitled to copies of such statements and documents (not the entire proceedings) as have a bearing on his character or military reputation as aforesaid unless the COAS for reasons to be recorded by him in writing, orders otherwise. The cases where copies of such documents and statements are intended to be refused under Army Rule 184(2) will be submitted to IHQ of MoD (Army), justifying reasons for such a refusal, for obtaining the orders of the COAS.

(b) Copies of such statements and document contained in the proceeding of C of I, as are relevant to his prosecution or defence at his trial or having a bearing on his character or military reputation will be provided /disclosed to the witness for retention under Army Rule 184 only after the C of I has concluded its investigation and the Convening Authority or a superior authority thereto, has issued his directions on the manner of disposal of the case.

(c) Other instance where stakeholders other than the persons directly affected by C of I proceedings may seek disclosure of proceedings include the following :-

(i) Under Regulation of Army Para 526 (Proceedings to be Shown Accounting Authority) C of I proceeding involving any financial question should normally be made available by the local administrative authorities to the internal accounting authorities whenever required. If, however, in any particular case the local authorities /HQ of MoD (Army) consider that there are special reasons for not providing C of I proceedings to the CDA, it should be referred to the Ministry of Defence for orders.

(ii) There will be instance where a witness may ask for a copy of the C of I proceedings, or an extract thereof as permitted under Army Rule 184(2) is specific in such cases that any person subject to the act whose character or military reputation is affected by the evidence before a C of I shall be entitled to copies of such statement and documents as have a

bearing on his character or military reputation as aforesaid. Therefore, no portion of the proceedings will be provided to an unaffected person.

(iii) Disclosure of C of I Proceedings to NOK

If the NOK of a deceased Service person, or a civilian deceased as a result of circumstances under investigation, ask for a copy of the C of I proceeding a redacted version will be provided; however, names contained within the various document may not necessarily be withheld.

(d) Information that should, normally and ordinarily, not be disclosed includes the following:-

(i) Personal data of those involved in the investigation and witnesses.

(ii) Information that would cause distress to the NOK or other persons if released.

(iii) Operational-related and classified information.

(iv) Information which could prejudice the outcome of another investigation or legal proceedings.

(v) Information which could endanger the mental or physical well-being of any individual.

(vi) Information provided in confidence by intelligence sources or other covert means.

6. Having considered the aforesaid policy and its stipulations, particularly ^{Para 46 B} Clause (c)(iii) and Clause (d), we are of the view that the applicant being a father and next of Kin of the deceased officer, is entitled to receive redacted versions of the CoI proceedings and other documents that are disclosable under the policy subject to the limitations described in Clause (d).

7. Accordingly, we direct that upon the applicant filing a certified copy of this order, the respondents shall provide him with the CoI documents and other materials as permissible


under the aforementioned policy within a period of four weeks.

8. As far as the request for documents such as the Will, nomination forms, etc., is concerned, the applicant may take recourse to remedies available before the Court of competent jurisdiction particularly in the context of any civil proceedings initiated regarding the validity or tenability of such documents.

9. Accordingly, the OA 4250/2024 stands disposed of.

10. Let a copy of this order be given *'DASTI'* to both the parties.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON.


[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

/PS/
OA 4250/2024