

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

64.

RA 11/2025 IN OA 2193/2021

Lac Banu Partap Singh	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Manoj Kumar Gupta, Advocate
For Respondents	:	Mr. Shyam Narayan, Advocate

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

ORDER
03.04.2025

RA 11/2025

Seeking review/recall of an order passed by this Tribunal in OA 2193/2021 on 27.02.2025, the applicant herein LAC Banu Partap Singh has filed this review application.

2. Four original applications were filed under Section 14 of the Armed Forces Tribunal Act, 2007, being OA 2443/2021, OA 947/2022, OA 2255/2022, and OA 2193/2021 (filed by the present applicant) along with four transferred applications, i.e., TA 29/2023, TA 30/2023, TA 31/2023 and TA 32/2023 which were writ petitions (civil) transferred by the Hon'ble Delhi High Court to this

Tribunal. All these matters were heard together and decided by a common order on 27.02.2025.

3. The applicant's case, i.e., OA 2193/2021 was filed before this Tribunal and notices were issued in his case on 20.10.2021 and after pleadings were completed it was found that the issue involved in the case of the applicant is similar to the issue involved in OA 2443/2021 and, therefore, on 04.08.2023 in the presence of the counsel for the applicant, the case was directed to be listed along with OA 2443/2021 and other seven cases. Thereafter, all the eight cases were listed together from 31.01.2024 onwards on various dates, they were heard jointly on various dates and finally all the eight cases were heard on 09.12.2024 and the arguments were concluded on 06.01.2025. They were reserved for orders and by a common order passed on 27.02.2025, all the eight applications were dismissed by a detailed order passed running to more than about 50 pages and 74 paragraphs.

4. The applicant has now filed this application for recalling the order passed in OA 2193/2021 and his main ground for recalling the order is that his case was different from the other seven cases. The grounds on which the discharge was claimed by him was not common to the others

seven cases as he is a case of medical disability, he had health issue pertaining to lower back ache and by wrongly clubbing his case with the other seven cases, his case has been dismissed without appreciating the difference in the matter. Primarily the review is sought for on this ground.

5. We may take note of the fact that the original application of the applicant was filed before this Tribunal on 12.08.2021 by Mr. Deepak Kumar and Mr. A.K. Chaudhary, Advocates along with their associate advocates and they had represented the applicant throughout, even when the case was being heard continuously on various dates and when it was reserved for judgement after hearing all concerned, i.e., the applicants and the respondents on 09.12.2024, the applicant was represented by the three associate counsels, namely, Mr. Anmol Verma, Mr. Virendra Verma and Mr. Aadesh Verma. After the case was reserved for judgement on 06.01.2025 and even when the judgement was pronounced in the open Court on 27.02.2025, no mention was made to say that the case was wrongly clubbed together and heard with the other seven cases erroneously. It is now for the first time that this application has been filed by a totally new and different counsel making this submission.

In the OA, filed by the applicant, the prayer made at Para 8 reads as under:

“(a) To direct the respondents to give IMMEDIATE DISCHARGE FROM SERVICE (IAF) to the applicant, treating his case under Rule 15 (2) (e) of Air Force Rules, 1969 R/W policy vide no. Air HQ/40504/PA (CPC) dated 11 Sep 2017, as applicant had also requested for immediate discharge from service vide application dated 31 Oct 2017, which was replied by respondents on 28 Dec 2020.”

And in the pleadings of the applicant, the primary challenge is made to the act of respondents in discharging the applicant before completing his initial term of appointment of 15 years on the ground that he has failed in the Corporal Promotion Examination (CPE) for three consecutive times and was unwilling to re-muster to a different grade as a result of which after issuing Show Cause Notice (SCN), he is being discharged with various other similarly situated persons. If the pleadings of the applicant and the grounds canvassed in the applications are concerned, it is clear that the primary challenge is to the discharge under Rule 15(2)(e) was on the ground of non-passing of the examination on three occasions and even though there are certain averments made to the effect that the applicant was in the disability medical category A4G3(P) but neither in the prayer clause nor in the submissions made before us, was any specific ground raised in the matter of seeking discharge on

medical ground. When the SCN for discharge was issued to the applicant, the applicant in his reply nowhere sought discharge on medical ground, even though in the legal notice issued has a passing remark made above the disability of the applicant.

6. Be that as it may be, the fact remains that the applicant and his counsel willingly submitted to the jurisdiction of this Tribunal, elaborately made submissions before this Tribunal along with seven other cases wherein similar prayers were made, the matter was heard on more than three occasions before it was reserved for judgement and the questions were formulated in Para 21 which reads as under and they have been elaborately argued and dealt with in the impugned order:

“21. Having heard both the parties at length and having examined various documents connected to the case produced by the respondents for examination by the court, we frame following issues for consideration:

i) Whether the terms and conditions of service specified by the Air Force Rules permit the applicant to be discharged prior to the regular engagement which they have signed for?

ii) Whether this tribunal has the jurisdiction to interfere in such policy decisions of the Indian Air Force or not?

iii) Whether the applicant is entitled to relief he is praying for vis-à-vis his discharge from service?”

7. Now for the first time the applicant has come out with a case that his case was distinct from the other cases which were clubbed together. The discharge of the applicant involved medical ground and, therefore, he seeks restoration of his case and deciding it separately on the ground that he is seeking discharge on medical ground which has not been properly considered. In our considered view, the applicant has come out with this plea in this review application simply by changing his counsel and making a plea which is nothing but an afterthought. A perusal of the pleadings of the applicant and the material available on record clearly indicate that the primary dispute in the OA, where challenge was made to the SCN and the discharge order pertain to discharge of the applicant on the ground of unwilling for re-mustering on account of non-clearance of the Corporal Promotion Examination on three occasions, after issuing SCN his services were dispensed with in accordance with the policy by the Indian Air Force along with many other persons who had approached this Tribunal and all these cases were clubbed together and decided. A perusal of the SCN issued to the applicant at Page No.23 of the OA on 26.12.2017 (Annexure A-6) clearly shows that the reason for discharge of the applicant was that he did not pass the Corporal

Promotion Examination (Test of Skill) on three occasions and he was given an opportunity to re-mustering and he did not seek re-mustering. The applicant has, even in the prayer clause as detailed hereinabove, challenged the discharge which was made under Rule 15(2)(e) of the Air Force Rules, 1969, under the category 'Immediate Discharge' from service on the ground of non-passing of the examination. That being so, we are of the considered view that the review now being sought for does not fall in the category of an error apparent on the face of the records which warrants reconsideration. The applicant never sought de-tagging of his case even after the matter was listed for final hearing along with the other seven cases, when it was argued on various dates and reserved for judgement, the ground for seeking discharge on medical ground was never canvassed before this Tribunal at any point of time by the counsel for the applicant. The cause of action now being sought for review on medical ground is a totally different ground which was never canvassed before this Tribunal except that the date of completing 15 years of service by the applicant which is shown as June, 2025 in the order passed by this Tribunal is a typographical error which should be read as June, 2026 and even if this error is corrected, no case

is made out for review or recall as the applicant has sought discharge not on medical ground but on the ground that his 'Immediate Discharge' on the grounds of non-passing the examination on three occasions is contrary to the terms and conditions of his appointment, his appointment was for 15 years and, therefore, his discharge could not be effected on the basis of a subsequent policy which permitted the discharge. These issues have been addressed on merit by this Tribunal in the order passed on 27.02.2025 and, therefore, if the applicant has any grievances in the matter of merit, the only course available to him is to challenge the order on merit before an appropriate Appellant Forum.

8. In our considered view, the grounds now raised for review/recall was never the grounds canvassed in this Tribunal at the time of hearing. It is now introduced as an afterthought by simply changing the counsel and making a different plea. This, in our considered view, is not permitted. There is no error apparent on the face of the records and, accordingly, we are not inclined to review/recall the order. The application is dismissed, even though the application should be dismissed with heavy costs as the applicant has tried to misuse the process of law but considering the fact and totality of the circumstances, we are not inclined to impose

any costs. However, there being no error apparent on the face of the records, we dismiss this application.

9. In view of the aforesaid, the RA stands dismissed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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RA 11/2025