

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

74.

MA 5090/2025 in OA 400/2022

Capt (DR) Lavesh Agrawal Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. S S Pandey, Advocate
For Respondents : Mr. Satya Ranjan Swain, Advocate

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

ORDER
10.03.2026

MA No.5090/2025

This Application has been filed seeking modification of an Order passed by this Tribunal in OA No.400/2022 on 20.02.2023.

2. Aggrieved by the action of the respondents in proceeding to take disciplinary action against the applicant, Capt. (DR) Lavesh Agarwal, OA No.400/2022 was filed before this Tribunal. The same was disposed of by a detailed order passed on 20.02.2023. We disposed of the matter with certain observations and directions as contained in para 11 and 12 of our Order. Now, it is the case of the applicant in this Application that for the purpose of effectively implementing the order, we should mention that action be taken in the matter in accordance with the Provisions of Para 23 read with para 23 and 24 of AO 43/2001/DV Desertion.

3. We have considered the submissions made and find that no such modification is required in the matter for the simple reason that proceedings for dismissal are laid down in the Army Order 43/2001/DV from Para 22 onwards and it is an admitted position that case of the applicant falls under Para 22 Sub Clause (a) para (v). Para 23 lays down the procedure to be adopted for dismissal or DR. However, now respondents want us to say that para 24 will also apply in case of officers and, therefore, the order be clarified by holding that the respondents can take action under para 24. In our considered view, the same is not required.

4. The classification of absence and desertion is categorized in Para 22 (a) and the period is also provided in para ^{Para 22 B} (b) and (c) thereof. What is contemplated in Para 24 is a procedure to be adopted for dismissal or DR in the matter of taking action against officers by the Unit and the formation. In our considered view, no such modification is called for. The respondents have to take a decision with regard to what procedure has to be followed and this Tribunal by modifying the order cannot make any observation which is not called for in the matter. Accordingly, finding no case for any modification or clarification of the Order, we dismiss this Application.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)