

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

1.

MA 6153/2025 (With Dy. No. 11709/2025)

Lt Col Surender Malik through his pariokar Applicant
wife Ms. Saloni

Versus

Union of India & Ors. Respondents

For Applicant : Mr. Karandeep Kaur, Advocate
For Respondents : Mr. Karan Singh Bhati, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

ORDER
20.01.2026

MA 6153/2025

Invoking the jurisdiction of the undersigned under Rule 6 of the Armed Forces Tribunal (Procedure) Rules, 2008, this application has been filed by the wife of Lt Col Surender Malik, seeking permission to initiate proceedings before this Tribunal under Section 14 read with Section 15 of the Armed Forces Tribunal Act, 2007.

2. It is the case of the applicant in this application that Lt Col Surender Malik is being subjected to General Court Martial convened vide order dated 17.10.2025 for alleged offences under Sections 45, 69 and 63 of the Army Act, 1950. It is alleged that the Court of Inquiry has been convened and the applicant has been falsely implicated on the basis of a biased Court of Inquiry

and a tainted Summary of Evidence wherein multiple procedural irregularities have been committed in gross violation of the statutory Rules.

3. The original application is being filed to challenge this action. The applicant is in Military custody since 18.12.2025 and his custody period is about 50 days including the pre-trial custody. At present the applicant is in close custody and facing Court Martial at Telbehath (U.P) attached to HQ 373 Arty Brigade. Being in close custody, it is stated that the applicant is unable to exercise his right to initiate proceedings under Section 15 of the Armed Forces Tribunal Act, 2007, and, therefore, as he is in Telbehath and it is not possible for him to effectively pursue remedy before the Regional Bench, which has jurisdiction in the matter, i.e., Armed Forces Tribunal, Regional Bench, Lucknow. The learned counsel for the applicant submits that the applicant's wife is presently staying in New Delhi, she is parokar and therefore, as it would be convenient for the wife to defend her husband in his Court Martial from New Delhi, she seeks permission to file the application under Section 15 before the Principal Bench at New Delhi.

4. Respondents have filed a detailed affidavit and objection to the application and it is their case that the cause of action for the ongoing disciplinary proceedings arose at Partepur, Siachen Brigade where Lt Col Surender Malik was posted as Adjutant

Quarter Master General between 01.05.2021 to 28.10.2022 and in the Para 5 of the application it is stated that the allegation against the applicant is that wife of the applicant went to the residence of Deputy Commander of 102 Infantry Brigade and submitted a compliant on 10.07.2022 with regard to the various acts of commissions and omissions, as detailed in Para 5 & 6 of the objections along with the videos, photos and phone calls all these material were seized and a Court of Inquiry was conducted and finding the Lt Col Surender Malik to be involved in using banned mobile application, uploading of unauthorized material on social media, making donations to political parties and other issues of national security. Finding the guilt of the applicant, *prima facie*, established in the Court of Inquiry, Mrs. Sanchita Malik the original wife of the applicant was also examined, report of Army Cyber Group with respect to the digital material were also obtained and based on the material that came in the Court of Inquiry the impugned action has been initiated after attaching Lt Col Surender Malik, to HQ 373 Artillery Brigade and he is presently facing proceedings for the offence as alleged. The offence took place within the territorial jurisdiction of the Regional Bench, Lucknow. The Court Martial is being conducted within the territorial jurisdiction of Regional Bench, Lucknow and therefore looking to the nature of allegations made and various other objections raised in the application, respondents submit that

the matter may not be heard at the Principal Bench, New Delhi, which is already over burdened with more than 12,000 pending cases and all the material evidence and witness against the applicant are in the HQ 373 Brigade.

5. Learned counsel for the respondents also invites our attention to the following judgments to say that in the light of the cause of action in the matter having arisen at Lucknow and various other aspects, the issue should be heard in the Bench having territorial jurisdiction i.e., Armed Forces Tribunal, Lucknow. The judgments relied upon are:-

(i) Hon'ble Apex Court, namely, (2020) 19 SCC 380 *Calcutta Gujarati Education Society vs regional Provident Fund Commissioner & Ors.*

(ii) Armed Forces Tribunal, Principal Bench order in OA 2329/2024 *Col Anu Dogra vs UOI* dated 16.07.2024.

(iii) Hon'ble Apex Court, namely, (1999) 9 SCC 29 *Sarabjit Kaur vs UOI & Ors.*

6. Learned counsel for the applicant places heavy reliance on the facts of the case the facility of the applicant's parokar his present wife to prosecute the matter and the law laid down by a Full Bench of this Tribunal in OA 460/2015 *Capt G Vivekanand vs UOI & Others* in support of his contention. Having considered the rival contentions it is seen that it is an admitted position that the cause of action for the entire disciplinary action initiated

against the Officer in question Lt Col Surender Malik, arose in the state of Uttar Pradesh, within the territorial jurisdiction of Regional Bench, Lucknow. Rule 6 of the Armed Force Tribunal, Procedure Rules 2008 reads as under:-

“6. Place of filing application:-

(1) An application shall ordinarily be filed by the applicant with the Registrar of the bench within whose jurisdiction:-

(i) the applicant is posted for the time being, or was last posted or attached ; or

(ii) where the cause of action, wholly or in part, has arisen:

Provided that with the leave of the Chairperson the application may be filed with the Registrar of the Principal Bench and subject to the orders under section 14 or section 15 of the Act, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

2. Notwithstanding anything contained in sub-rule (1), a person who has ceased to be in service by reason of his retirement, dismissal, discharge, cashiering, release, removal, resignation or termination of service may, at his option, file an application with Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.”

7. From the aforesaid provision it is clear that the application shall ordinarily be filed by the applicant with the Registrar of the Bench within whose jurisdiction the applicant is posted or was last posted or attached to and where the cause of action wholly or in part accrued. If the provisions of Rule 6(1) Sub-Section (i) & (ii) are applied, ultimately the power or the jurisdiction to deal with the matter is with the Regional Bench, Lucknow. However, the proviso to the Rule gives the administrative power to the Chairperson of this Tribunal to decide the question of jurisdiction. Looking to the various aspects of the matter and in the light of the power available to the Chairperson under Section 27 of the Rules,

this power available under the proviso to Rule 6 also. These provisions were subjected to consideration before the full Bench of this Tribunal in the case of **Capt G Vivekanand (Supra)** wherein the Bench has held that the applicant has a right to choose the place of filing of an application and the applicant's dominance leads in such matter. However, at the same time the issue has been considered in various cases including the case of **Maj Gen Devendra Arora (Retd)** and also in the case of **Col Anu Dogra** by a Division Bench of this Tribunal in the **OA 2329/2024** and the issue of territorial jurisdiction of a Tribunal based on the cause of action has already been considered in various cases as referred to by learned Counsel for the respondents at the time of hearing i.e., the following cases.

8. In the facts and circumstances of the present case the records clearly reveal that the alleged offence was committed while the applicant was posted as Adjutant Quarter Master General between 01.05.2021 to 28.10.2022 in Partepur, Siachen Brigade which is within the jurisdiction of the Regional Bench, Lucknow. The Court of Inquiry and other proceedings were also held within the territorial jurisdiction of the Regional Bench, Lucknow. The orders convening the Court Martial and other action were also taken by the Competent Authority which is within the territorial jurisdiction of the Regional Bench, Lucknow. That being so, based on the principles laid down under the

provisions of Rule 6 (1) Sub Para (i) & (ii) the cause of action arose within the territorial jurisdiction of the Regional Bench, Lucknow. Even though in the case of **Capt G Vivekanand (Supra)** there is an observation to the effect that the applicant should be given the liberty to choose the Bench where he can initiate the proceedings but the same has to be decided by the undersigned after taking note of various factors.

9. In the present case the nature of allegations leveled against the applicant, the documents held with regard to the issue and the witnesses and other persons are within the jurisdiction of the Regional Bench, Lucknow and the Court Marital is also being held there. The only grievance of the applicant is as he is in close custody and his parokar is in New Delhi, it would be easy for her to prosecute the matter from New Delhi.

10. However, judicial notice can be taken note of certain administrative situations prevailing in the Armed Forces Tribunal. The pendency of the cases in the Principal Bench, New Delhi is more than 12,000, Court Martial and other matter since 2011 are pending before this Tribunal, whereas at the Regional Bench, Lucknow, hardly 2,222 cases are pending and three Courts are functional out of which two Courts are fully functional. There are nine vacancy of a Judicial Members and there of Administrative Members in this Tribunal as a result of which five Regional Benches, Regional Bench Kochi, Regional Bench Kolkata,

Regional Bench Guwahati, Regional Bench Jabalpur, Regional Bench Jammu and Regional Bench Chennai are non-functional. Functioning of these Benches is being done by the Judicial Member and the Administrative Member at the Principal Bench, New Delhi and by the Member from the Bench in Chandigarh, which adds to the work load in the Regional Bench at Chandigarh and Principal Bench, New Delhi.

11. The only inconvenience of the applicant indicated in the application is that he is under close arrest and he is unable to instruct his counsel or go to Lucknow or manage the case from the Regional Bench, Lucknow because he is in close arrest.

12. Learned counsel for the respondents submits that the applicant can be considered for keeping him under open arrest and permit his counsel or parokar to visit him in custody and to assist him in dealing with the matter. That apart, Regional Bench, Lucknow is also functional through virtual mode of hearing and very soon hybrid mode will also be introduced in the Regional Bench, Lucknow. That being so, link can be provided to the applicant to participate in the proceedings at Lucknow through virtual hearing or if an application is made to the Lucknow Bench he can be permitted temporary release to attend the proceedings at Lucknow or to brief his counsel. On the application moved by the applicant, the Bench at Lucknow can make all arrangements for the applicant to assist in effectively defending himself in the

matter. Wide powers are available to this Tribunal under Section 15 which includes suspension of sentence, grant of bail, leave, Parole etc.

13. That being so, looking to the totality of the facts and circumstances of the case and various issues that have come on record, I am of the considered view that it is not be necessary to permit filing of the application in the Principal Bench at New Delhi, when the Regional Bench at Lucknow is very much functional, two Courts are regularly functioning in Lucknow. The Number of cases pending there is much less than those pending in the Principal Bench and all facilities can be provided to the applicant to effectively defend himself in the Regional Bench at Lucknow, which is nearer to the place of his custody.

14. Taking note of all these circumstances, I am not inclined to allow this application, the application is accordingly disposed of.



[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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