

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

12.

OA 128/2026 WITH MA 148/2026

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| Col Gaurav Kumar Pathak | | Applicant |
| Versus | | |
| Union of India & Ors. | | Respondents |

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|-----------------|---|-------------------------------|
| For Applicant | : | Mr. Shriya Gilhotra, Advocate |
| For Respondents | : | Mr. Prabodh Kumar, Sr. CGSC |

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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE RASIKA CHAUBE, MEMBER (A)

ORDER
19.01.2026

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and seeks quashing of the Confidential Report (CR) for the periods 08.01.2009 to 31.12.2009, 01.01.2010 to 25.10.2010, 16.09.2011 to 16.01.2012, 29.01.2017 to 04.05.2017, 01.06.2017 to 31.05.2018 and 01.06.2019 to 31.08.2019.

2. The respondents have raised a preliminarily objection with regard to the inordinate delay in challenging the CR after such a long period of time. The applicant was commissioned into the Indian Army on 08.06.2002 and he claims to have more than 23 years of unblemished service as on date. According to the applicant, he has

an unblemished service records, has also being awarded COAS Commendation Card and has participated in various operations like Op Parakram, Op Rakshak, Op Rhino, etc., and it is his grievance that in spite of his contribution, he has received low appraisal by the RO for the CRs during the periods 08.01.2009 – 31.12.2009, 01.01.2010 – 25.10.2010, 16.09.2011 – 16.01.2012 and thereafter, from 29.01.2017 – 04.05.2017, 01.06.2017 – 31.05.2018 and 01.06.2019 – 31.08.2019.

3. It is seen from the aforesaid that for the periods continuously from 08.01.2009 up to 16.01.2012 and thereafter, from 29.01.2017 continuously up to 31.08.2019, the applicant contends that his CRs received are disproportionately low and the RO and SRO have not assessed his work properly. He made complaints of assessment of his work in a manner which is neither fair nor based on his performance and does not meet the objective criteria laid down. His grievance is that because of the low grading received in the CR, he has not been nominated for Higher Command/Equivalent courses in Feb 2022 and 2023 and, therefore, he has submitted a statutory complaint on 27.04.2022 and again on 03.05.2023 which have been rejected by the impugned orders on 05.04.2023

and 08.11.2023 respectively. He has, therefore, filed this OA challenging the impugned orders. As the OA has been filed after a period of limitation, the applicant has filed an application for condonation of delay under Section 22(2) of the Armed Forces Tribunal Act, 2007, seeking condonation of only 582 days on the grounds stated in Para 2 of the said application, i.e., MA 148/2026 and the following grounds read as under:

"2. That due to some unavoidable circumstances eg, official commitments wherein due to the specific military qualifications of the Applicant, he was detailed on various Military exercises back to back, for being detailed in assessment of Brigade deployment and operational test exercises, outstation Temporary duties detailments for various Op conferences/discussions, the transfer of the Applicant in the month of June/July and then settling down in the new Station and the constant illness of the elders in the family, the present OA has been filed with a delay of 582 days."

4. However, the applicant does not give any reason as to why the CRs right from the year 2009 up to 2019 are being challenged after such a long period of time. Respondents contend that the applicant has not challenged the CR within a reasonable period of time and now he challenges all the CRs on the ground that because of the CR, he has not being recommended for Higher Command course, etc.

5. In our considered view, the applicant has received the impugned CRs right from January, 2009 up to August, 2019,

initially, from January, 2009 to January, 2012 and thereafter, January, 2017 to August, 2019. In the first set of CR, he kept quiet from 2009 to 2012 when on various dates he was apprised of the grading granted to him and thereafter, kept quiet for the period between 08 to 17 years and challenges the CRs granted to him for periods beyond 08 to 17 years back.

6. In our considered view, in the matter of promotions, seniority and grant of CR, if challenges are not made within a reasonable period of time, things settled down and third party interests of fellow employees are created and if a person sleeps over his right for a long period of time and makes a plea after an unexplained period of time, challenge to the same may create disadvantage to persons who have received promotions or other benefits based on the CR earned by them and the applicant having kept quiet over the matter had permitted such rights to accrue to the fellow employees who may be junior to him as well. Now, unsettling the things which have settled between 2009 to 2019 after such a long period of time without any justification given, in our considered view, would create a situation where settled issues in various matters would be disturbed and, therefore, on the principles of delay and laches and the inaction on the part of

the applicant in not challenging the CRs within a reasonable period of time, we see no reason to interfere into the matter. The applicant in the application for condonation of delay under Section 22(2) AFT Act, 2007, i.e., MA 148/2026 except for mentioning the reason given in Para 2 which is reproduced hereinabove does not mention anything for seeking condonation of delay even for entries in the CRs made from 08.01.2009 onwards and there is no representations/objections filed by the applicant. It was only on 05.04.2023 and 08.11.2023 that for the first time, after inordinate period of delay, he has submitted the statutory compliant.

7. In our considered view, the act of the applicant in sleeping over his right and not ventilating his right on time resulted in creation of right in the favour of many of his co-employees some of whom are juniors to him in the matter of promotion and various service benefits and at this stage by evaluating the CR from the year 2009 onwards, this Tribunal would be upsetting all the settled issues and reopening the issues which is not permissible in law. Accordingly, finding the applicant to have slept over his right and the delay and laches having rendered, the applicant is remediless.

8. Therefore, in the peculiar facts and circumstances of the matter, we dispose of this OA without going into the merit of the matter.

9. In view of the aforesaid order passed in OA, no order is necessary in MA 148/2026.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)

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OA 128/2026