

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA 3297/2024 with MA 6129/2025

Col Akshaya Kumar Shukla Applicant

VERSUS

Union of India and Ors. Respondents

For Applicant : Mr. Anand Kumar, Advocate with
Mr. Akshit Anand and Gurpreet Daas,
Advocates

For Respondents : Mr. Karan Singh Bhati, Sr CGSC
Maj Abhishek Kumar, OIC, Legal Cell

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
30.03.2026

Vide order of even date the application MA 772/2026 in OA 3297/2024 has been disposed of with it having been *inter alia* directed thereby that the contentions detailed in OA 3297/2024, OA 3753/2025, OA 2677/2025, OA 2692/2025 and OA 187/2025 be considered by the Confirming Authority at the stage of consideration of any pre-confirmation petition that the applicant may file to the Confirming Authority in relation to the sentence dated 29.10.2025 qua the GCM proceedings which have concluded on 29.10.2025 with orders of dismissal from service. Thus, the OA 3297/2024, OA 3753/2025, OA 2677/2025, OA 2692/2025 and OA 187/2025 call for no other action and are disposed of accordingly.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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MA 772/2026 IN OA 3297/2024

Col Akshaya Kumar Shukla **Applicant**

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**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

ORDER

The Union of India and other Respondents to
OA.3297/2024 vide the present make the following prayers:-

*"a) vacate the order dated 26.05.2025
restraining the Respondents from
pronouncing and/or confirming the sentence
passed against the Applicant; and/or*

*b) pass any other order(s) or direction(s) as
this Hon'ble Tribunal may deem fit and
proper in the facts and circumstances of the
present case."*

2. The applicant vide the present OA 3297/2024 had made
the following prayers:-

“A. Quash the complete Court of Inquiry proceedings ordered vide Convending order dated 29 Dec 2022 including its “Findings” and order passed by the competent authority to initiate disciplinary action on the basis of such COI proceedings and

B. Direct the respondents to conduct fresh COI outside the jurisdiction of Northern Command because of well-established bias, affording full opportunity to the applicant and

C. Quash the attachment order dated 03 June 2024 (Annexure-A/1) and

D. Quash Army Instruction 30/86(Annexure-A/2)

E. Quash the Tentative Charge Sheet (Annexure A/3) and the Hearing of Charge proceedings and

F. Direct the respondents to take action on the complaints made by the applicant against CoI Gaurav Singh Gosain, Respondent No. 7 and the Presiding Officer, Respondents No. 5 and/or

G. Pass any order or orders, instructions/s, directions/s as this Hon’ble Court may deem just and appropriate in the facts and circumstances of the case.”

3. Along with the same was a prayer seeking grant of interim relief to the effect:-

“Grant stay on the disciplinary proceedings until disposal of this application.”

4. Vide order dated 26.05.2025 in OA 3297/2024, when OA 4548/2024 filed by the very same applicant were taken up, it was directed vide paras 5 and 6 to the effect:-

“5. Part submissions have been addressed on behalf of the applicant in OA 3297/2024, OA 4548/2024 and OA 187/2025. It is considered essential that the two sets of copies of the Col, two sets of copy of SoE and two sets of the final charge sheets be placed on record with the originals thereof being also produced on the dates of final hearing till the conclusion of the hearing in the matters.

6. As an interim measure it is directed that no final action in relation to any disciplinary action contemplated to be taken against the applicant by the respondents be taken till disposal of the three OAs OA 3297/2024, OA 4548/2024 and OA 187/2025 and also in relation to the said three OAs aforementioned. On the basis of the GCM proceedings being conducted against him without leave of this Tribunal.”

5. Vide the application MA 772/2026 presently under consideration, it has been submitted on behalf of the respondents that during the pendency of OA 3297/2024, the proceedings in respect of the applicant were concluded on 29.10.2025 and the officer was awarded the punishment of **Dismissal from service**, but that the order of dismissal has not been given effect to in view of the order dated 26.05.2025 in OA 3297/2024.

CONTENTIONS RAISED

6. It has thus been submitted on behalf of the respondents i.e. the applicants of MA 772/2026 that the said order dated 26.05.2025 prevents the General Court Martial from taking any final decision against the applicant and leaves the matter unresolved, thereby impacting both the applicant and the respondents and that presently the applicant is also in receipt of pay and allowances since the past three months without performing any duties.

7. *Inter alia*, the respondents to the OA 3297/2024 submit that in the event of the applicant being aggrieved by the proceedings being unfair or biased, he can file a fresh OA incorporating all objections in the same OA which may be adjudicated by the Tribunal in due course. The applicant has filed the response to this application and has opposed the same.

8. **During the course of the submissions made on behalf of the respondents, it was submitted by the learned Senior CGSC, Mr. Karan Singh Bhati, that the respondents be given an opportunity of confirming the court martial findings,**

though the promulgation of the said findings may be deferred.

9. During the course of submissions made on behalf of the applicant, it was however submitted that permitting the confirmation of the findings of the GCM and merely staying the promulgation thereof would defeat the applicant of his rights statutorily conferred under Section 164 (1) of the Army Act 1950, and that as a consequence thereof the submissions that have been made by the applicant challenging the orders in the Court Martial Proceedings vide OA 3297/2024, OA 3753/2025, OA 2677/2025, OA 2692/2025 and OA 187/2025 would all be rendered nugatory. OAs 3355/2025 and OA 4548/2024 filed by the very same applicant qua the very same Court Martial proceedings have both been dismissed as withdrawn vide order dated 06.11.2025. Section 164 of the Army Act 1950 provides to the effect:-

“164. Remedy against order, finding or sentence of court- martial.

(1) Any person subject to this Act who considers himself aggrieved by any order passed by any court-martial may present a petition to the officer or authority empowered to confirm any finding or sentence of such court- martial, and the confirming authority may take such steps as may be considered necessary to satisfy

itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any court-martial which has been confirmed, may present a petition to the Central Government, [the Chief of the Army Staff] or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the Chief of the Army Staff] or other officer, as the case may be, may pass such order thereon as it or he thinks fit.”,-

10. *Inter alia*, it was submitted on behalf of the applicant that in terms of Section 14 of the AFT Act 2007, the applicant has filed the OA 3297/2024, OA 3753/2025, OA 2677/2025, OA 2692/2025 and OA 187/2025.

11. The applicant further submits that under Section 14 (2) of the AFT Act 2007, a person aggrieved by an order pertaining to any service matter may make an application to the Tribunal and in terms of Section 15 (1) and (2), thereof any person aggrieved by an order, decision, finding or sentence passed by a court martial may prefer an appeal on being aggrieved by any order, decision, finding or sentence passed by a court martial.

12. It is further submitted on behalf of the applicant that in terms of Section 15 (4) of the AFT Act 2007 the powers of the

Tribunal relate to the aspect of determination as provided to the effect:-

“15(4) The Tribunal shall allow an appeal against conviction by a court martial where—

(a) the finding of the court martial is legally not sustainable due to any reason whatsoever; or

(b) the finding involves wrong decision on a question of law; or

(c) there was a material irregularity in the course of the trial resulting in miscarriage of justice,

but, in any other case, may dismiss the appeal where the Tribunal considers that no miscarriage of justice is likely to be caused or has actually resulted to the appellant:

Provided that no order dismissing the appeal by the Tribunal shall be passed unless such order is made after recording reasons therefor in writing.”

13. *Inter alia*, on behalf of the applicant, reliance has also been placed on the provisions of Section 17 of the AFT Act 2007, which reads as under:-

“17. Powers of the Tribunal on appeal under section 15.—*The Tribunal, while hearing and deciding an appeal under section 15, shall have the power—*

(a) to order production of documents or exhibits connected with the proceedings before the court martial;

(b) to order the attendance of the witnesses;

(c) to receive evidence;

(d) to obtain reports from Court martial;

(e) order reference of any question for enquiry;

(f) appoint a person with special expert knowledge to act as an assessor; and

(g) to determine any question which is necessary to be determined in order to do justice in the case.”

14. On behalf of the respondents to OA 3297/2024 as applicant's of MA 772/2026, reference was made to Sections 153, 160 of the Army Act 1950 which are as under:-

“153. Finding and sentence not valid, unless confirmed.

No finding or sentence of a general, district or summary general, court-martial shall be valid except so far as it may be confirmed as provided by this Act.

160. Revision of finding or sentence.

(1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming authority and on such revision, the Court, if so directed by the confirming authority, may take additional evidence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or, if a summary general or district court-martial, of three officers.”

and the provisions of Rules 69, 70 and 71 of the Army Rules 1954 which are as under:-

“69. Review of court-martial proceedings. The proceedings of a general court-martial shall be submitted by the judge-advocate at the trial for review to the deputy or assistant judge-advocate general of the command who shall then forward it to the confirming officer. The proceedings of a district court-martial shall be sent by the presiding officer or the judge-advocate direct to the confirming officer who must, in all cases, where the sentence is dismissal or above, seek advice of the deputy or assistant judge-advocate general of the command before confirmation.

70. Confirmation. Upon receiving the proceedings of a general or district court-martial, the confirming authority may confirm or refuse confirmation, or, reserve confirmation for superior authority, and the confirmation, non-confirmation, or reservation shall be entered in and form part of the proceedings.

71. Promulgation. The charge, finding, and sentence, and any recommendation to mercy shall, together with the confirmation or non-confirmation of the proceedings, be promulgated in such manner as the confirming authority may direct; and if no direction is given, according to the custom of the service. Until promulgation has been effected, confirmation is not complete and the finding and sentence shall not be held to have been confirmed until they have been promulgated.”

15. On behalf of the respondents i.e. the applicants of the MA 772/2026 it was submitted to the effect that in terms of Section 164 of the Army Act 1950, Rules 69, 70 and 71 of the Army

Rules 1954, it is apparent that the finding or sentence of the court martial:-

- may be revised;
- may be reviewed;
- confirmation of the general/district court martial proceedings may be refused;
- confirmation of the general/district court martial may be reserved for a superior authority;_

in as much as the Confirming Authority is required to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceedings to which the order relates to in relation to the court martials.

16. It was also submitted on behalf of the applicant that OA 3297/2024, OA 3753/2025, OA 2677/2025, OA 2692/2025 and OA 187/2025 be allowed to treated as pre confirmation petition under Section 164 of the Army Act 1950 so that they may be considered by the Confirming Authority to satisfy itself as to the correctness, legality or propriety of the orders passed in the court martial proceedings as challenged through the OA

3297/2024, OA 3753/2025, OA 2677/2025, OA 2692/2025 and OA 187/2025.

CONSIDERATION AND DIRECTIONS

17. On a consideration of the submissions that have been made on behalf of either side:

- taking into account that the GCM proceedings have concluded on 29.10.2025 and as the GCM proceedings are yet to be confirmed by the Confirming Authority in view of the interim directions dated 26.05.2025 of this Tribunal in OA 3297/2024 already adverted to hereinabove in para 4, and
- the applicant IC62805A Colonel Akshay Kumar Shukla of 509 Army Base Workshop attached with HQ 8 Mountain Artillery Brigade as per the GCM proceedings during the course of the hearing MA 772/2026 produced by the respondents having been sentenced to be dismissed from service, with it having been stated that the sentence announced was subject to confirmation,

- in as much as undoubtedly the applicant's rights in terms of Section 164 of the Army Act 1950 have to be protected,-

it is directed that the confirmation, if any, of the findings of the GCM and sentence dated 29.10.2025, be done in accordance with the provisions of Chapter XII of the Army Act 1950 which relates to '**CONFIRMATION AND REVISION**' and as provided in the Army Rules 1954 vide Rules 68 to 70 thereof.

18. Furthermore, the contentions raised by the applicant vide OA 3297/2024, OA 3753/2025, OA 2677/2025, OA 2692/2025 and OA 187/2025 filed before this Tribunal shall be taken into account by the Confirming Authority whilst considering the pre-confirmation petition in the event of any being filed by the applicant.

19. The MA 772/2026 is thus disposed of accordingly.

Pronounced in the Open Court on 30th day of March, 2026.

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

[JUSTICE ANU MALHOTRA]
MEMBER (J)

AP