

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

4.

OA 775/2026

Hav (Clk SD) Vikas Kumar	.....	Applicant
Versus		
Union of India & Ors.	.....	Respondents

For Applicant	:	Mr. Shashank Shri Tripathi, Advocate
For Respondents	:	Mr. Neeraj, Sr CGSC

CORAM

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

**ORDER**  
**07.04.2026**

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed the present application challenging the Summary Court Martial proceedings sought to be initiated against him on the ground that the offence for which he is being tried is barred by limitation as prescribed under Section 122 of the Army Act, 1950.

2. It is the case of the applicant that, vide the Convening Order (Annexure A-1) dated 23.10.2025, a Court of Inquiry was conducted, and based thereon, the Summary of Evidence and other consequential proceedings under the Army Act, 1950 read with the Army Rules, 1954 are presently in progress. The applicant, having raised a plea of bar, has prayed for quashing of the proceedings on the ground that the same are time-barred under Section 122 of the Army Act, 1950.

3. It is the case of the applicant that vide Annexure A-6, a plea of bar, under Rule 53 of the Army Rules, 1954 has been raised by the applicant. The respondents have not decided the same and, therefore, the proceedings, initiated against the applicant, be quashed.

4. Respondents refute the aforesaid contention and argued that only a Court of Inquiry has been conducted. The same is yet to be concluded. Hearing of charge under Rule 22 of the Army Rules, 1954 is in progress, thereafter, summary of evidence would be taken and in case a *prima facie* case is made out, regular trial would be conducted and the right to the applicant to invoke the provisions for plea of bar under Rule 53 of the Army Rules, would arise only if after the summary of evidence the applicant is being put to trial on the basis of case framed against him after investigation into the matter and after recording of the summary of evidence under Rule 22 of the Army Rules.

5. Having heard learned counsel for the parties, we are of the considered view that, at this stage, the right available to the applicant under Rule 53 of the Army Rules, 1954 cannot be exercised. The applicant, at the stage of hearing of charge under Rule 22 and the subsequent proceedings under Rule 23, as well as during the recording of Summary of Evidence under Rule 24, is at liberty to raise the plea before the competent authority. In the event that, upon completion of these stages, a formal charge-sheet

is issued to the applicant under Rule 28 and proceedings for trial by Court Martial are initiated, the applicant can raise the plea of bar before the court under Rule 53 and it would be for the court conducting the trial to first decide the plea of bar raised by the applicant under Rule 53 and thereafter only to proceed with the trial.

6. That being so, we are of the considered view that at this stage, it is premature for the applicant to invoke the jurisdiction of this Tribunal and seek his discharge. The applicant may raise the issue of limitation under Section 122 at an appropriate stage before the competent authority in accordance with the procedure prescribed under the Army Rules, 1954 as detailed hereinabove. With the aforesaid liberty to the applicant, for the present, finding no case made out for interference, the OA stands dismissed.

7. There is no order as to costs.

**[JUSTICE RAJENDRA MENON]  
CHAIRPERSON**

**[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)**

/vb/

(OA 775/2026)