

Court No.1
Reserved Judgment

ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW

Transferred Application No. 1029 of 2010

Friday this the 12th day of February, 2016

Hon'ble Mr. Justice V.K. DIXIT, Member (J)
Hon'ble Air Marshal Anil Chopra, Member (A)

Ram Shanker Rai son of Sri Nath Rai
Permanent Residence of Village Eakdar
Police Station Rajpoo District Buxer
Now presently residing at village Deokali,
Post office Bhadeora, Police Station Gahmer
District : Ghazipur.

..... Applicant

By Legal Practitioner Shri P.K. Shukla, Advocate

Versus

1. The Union of India.
2. The Commander in Chief Army Head Quarters New Delhi.
3. The Lt. Col. Offg. Coy. Comdr. for Commandant Military hospital Ranchi-10
4. The Incharge Central Command Lucknow U.P.

..... Respondents

By Legal Practitioner Shri Amit Jaiswal, Learned Counsel for
the Central Government

ORDER

“Hon’ble Air Marshal Anil Chopra, Member (A)”

1. Aggrieved by the order dated 19.08.2002 and 09.09.2002 terminating his services on the basis of plural marriage, the petitioner filed Writ Petition No. 53259/2002 in the Hon’ble High Court of judicature at Allahabad which was transferred to this Tribunal and renumbered as T.A. No. 1029 of 2010 and he has claimed the reliefs as under:-

- “(1) *Issue a suitable writ order or direction in the nature of mandamus commanding the respondent no. 4 not give an effect to the order dated 19.08.02 and 9.9.02 passed by the respondent no. 4 and 3 respectively.*
- (2) *Issue a suitable writ order or direction in the nature of mandamus commanding the respondents no. 4 to decide the representation dated 24.9.02 which is still pending.*
- (3) *Issue a suitable writ order or direction in the nature of mandamus commanding the respondents to afford an opportunity of hearing to the petitioner.*
- (4) *To issue a suitable writ order or direction which this Hon’ble Court may deem fit and proper in the circumstances of the case.*
- (5) *To award the cost of the present writ petition to the petitioner.”*

2. Brief facts of the case are that the petitioner was enrolled in the Indian Army on 29.10.1993 and his services were terminated on 09.09.2002 after 08 years, 10 months and 09 days of service for contracting and admitting plural marriage without

appropriate sanction. The termination was in terms of Para 333 (C) (c) of Regulations for the Army (Revised Edition) 1987 and HQ Central Command letter No. 190105/2453/M/A(DV) dated 17.08.2002.

3. Heard Shri P.K. Shukla, learned counsel for the applicant, Shri Amit Jaiswal, learned counsel for the respondents and perused the record.

4. **Para 333 (C) (c) of Regulations for the Army (Revised Edition) 1987** is reproduced below :-

Para 333 (C) (c)

“When it is found, on receipt of a complaint from any source whatsoever, that any such person has gone through a ceremony of plural marriage, no disciplinary action by way of trial by Court Martial or Summary disposal will be taken against him, but administrative action to terminate his service will be initiated and the case reported to higher authorities in the manner laid down in sub-para (B) (g) above. In cases where cognizance has been taken by civil court of competent jurisdiction the matter should be treated as sub judice and the decision of the court awaited before taking any action. When a person has been convicted of the offence of bigamy or where his marriage has been declared void by a decree of court on grounds of plural marriage, action will be taken to terminate his service under AA Section 19 read with Army Rule 14 or AA Section 20 read with Army Rule 17 as the case may be. No ex-post-facto sanction can be accorded as such marriages are contrary to the law of the land.

Sub Para (B) (g)

“Cases where it is found that an individual has contracted plural marriage without obtaining prior Government sanction as required in clause above will be dealt with as under :-

- (i) *Cases of officers will be reported through normal channels to Army Headquarters(AG/DV-2) with the recommendation as to whether ex-post-facto sanction should be obtained or administrative action should taken against the individual.*
- (ii) *Cases of JCOs and OR will be submitted to the GOC-in-C Command who will decide whether ex-post-facto sanction should be obtained or administrative action should be taken against the individual. In cases, where it is decided that administrative action should be taken against the individual, his service will be terminated under order of the competent authority.*

When reporting cases to higher authorities, intermediate commanders will endorse their specific recommendations with reasons thereof. Here too recommendations will be signed by the Commanders themselves or be personally approved by them. Also, an opportunity to 'show cause' against the order of termination of service will always be given to the individual concerned."

5. The fact of the plural marriage came to light when a petition dated 27.12.2000 from Father-in-Law of the petitioner was received. Based on this complaint, the petitioner was asked to give his statement in writing vide letter dated 10.03.2001 (Annexure 1 of CA). In his reply dated 12.03.2001 (Annexure 2 of CA) he conceded that he had contracted plural marriage. He has further stated that his first wife Reeta Devi was suffering from mental illness but Reeta Devi's family was not ready to accept this contention of the petitioner. Yet the petitioner arranged for treatment of his first wife Reeta Devi for four

years, but her condition did not improve. The petitioner conceded that he thereafter decided to go ahead with his second marriage to Sangeeta Devi. The unit approached DSS&A Board, Ghazipur who confirmed that petitioner has got married on 25.06.1994 with Smt. Reeta Devi (first wife) and again got married with Smt. Sangeeta Devi on 09/10.07.2000 (second wife) vide letter dated 29.05.2001 (Annexure 4 of CA). It was further mentioned that petitioner's father had stated that the first wife Reeta Devi was suffering from mental illness.

6. As per the above quoted Regulation, the petitioner should have sought prior Government sanction. The petitioner conceded that the same had not been done. At this stage it was decided to initiate administrative action against the petitioner based on Para 333 (C) (c) of Regulations for the Army (Revised Edition 1987) and sanction of the GOC-in-C was sought vide recommendation of the Hospital Commandant dated 16.07.2001 (Annexure 7 of CA). The GOC-in-C Central Command accorded his sanction on 17.08.2002 (Annexure 8 to CA). The letter of GOC-in-C Central Command is reproduced below :-

**“DIRECTIONS OF THE GENERAL OFFICER
COMMAINDING-IN-CHIEF, CENTRAL COMMAND IN
THE CUASE OF THE ALLEGED PLURAL MARRIAGE BY
NO 13987164A SEPOY/AMBULANCE ASSISTANT RAMA
SHANKER RAI OF MILITARY HOSPITAL, NAMKUM”**

1. I have considered the reply of No 13987164A Sepoy/Ambulance Assistant Rama Shanker Rai of Military Hospital, Namkum dated 25 Jan 2002 to the show cause notice issued to him vide this Headquarters letter No 190105/Maint/2453/M/A(DV)(i) dt 04 Jan 2002 and I agree with the recommendations of General Officer Commanding, Madhya Bharat Area.

2. The records reveal that No 13987164A Sepoy/Ambulance Assistant Rama Shanker Rai of Military Hospital Namkum got married to Smt Reeta Devi, daughter of Shri Ram Shanker Rao of Vill-Ushiya, Dist-Ghazipur on 25 Jun 94. During the existence of said marriage, the individual married Smt Sangita Devi, daughter of Shri Mukhtar Rai of Village Devkali, District Ghazipur on 09 Jul 2000 without taking divorce from his first wife. The individual has also admitted this fact in writing in his reply to the show cause notice.

3. I have also considered the reasons advanced by the individual for contracting plural marriage and observe that the same does not afford any legal justification for contracting plural marriage.

4. I therefore, direct that services of No 13987164A Sepoy/Ambulance Assistant Rama Shanker Rai of Military Hospital Namkum be terminated for contracting plural marriage in terms of Para 333 (C) (c) of Regulations for the Army (Revised Edition 1987).

Station : Lucknow-2 (DS Chauhan)
Lieutenant general
Dated : 17 Aug 2002 General Officer Commanding-in-Chief

Case No ; 190105/2453/M/A(DV)''

7. In the reasoned and detailed speaking order, the GOC-in-C has considered all aspects of the case. The petitioner has conceded in writing about the plural marriage. The same has been confirmed by DSS&A Board. As per the Regulation quoted above, the GOC-in-C has the power to decide whether ex-post-facto sanction should be obtained or administrative action should be taken against the individual. At no stage has petitioner made a request to the authorities for seeking ex-post-facto sanction. We are of the view that the decision of the GOC-in-C is well reasoned and requires no interference.

8. The counsel for the petitioner conceded that the petitioner had contracted plural marriage without taking any sanction and did not make any fresh arguments. As per the

Regulations (supra), the plural marriage is against the law. Plural marriage has been conceded by the petitioner in writing and has now been confirmed again by the learned counsel for the petitioner. The Regulations for the Army clearly indicates the direction to terminate the service. Action taken by the respondents was as per the said Regulations and the petitioner services were terminated.

9. In view of the above, the petitioner has not been able to make out the case. The Transferred Application is liable to be dismissed as devoid of merits. Transferred Application 1029 of 2010 is dismissed.

10. There will be no orders as to costs.

(Air Marshal Anil Chopra)
Member (A)

(Justice V.K. DIXIT)
Member (J)

Dated : February, 2016
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