

E-Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****ORIGINAL APPLICATION No. 236 of 2020**

Tuesday, this the 26th Day of April, 2022

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Demudu Babu Cheepurupalli, Son of Sri Apparao Cheepurupalli, No. s15700436K (Signalman), 60 Wireless Experimental Unit (Attached to 581 Sub Group (ASCON) Pin- 916581, C/o 56 APO

..... Applicant

Ld. Counsel for the: **No one is present on behalf of Applicant**

Versus

1. Union of India, through its Secretary, Ministry of Defence, Government of India, New Delhi.
2. Chief of Army Staff, Integrated Services, Head Quarters of Ministry of Defence (Army), New Delhi.
3. Lt Col Officiating in Office 581 Sub Group (ASCON) Dabath Waha, Meerut.
4. V-522N Lt Col SJ Prem Kumar of Remount and Veterinary Corps Centre & College.

5. IC-632331 Lt Col RK Singh of 16 Engineer Bridge Regiment (PMS).
6. IC-63737K Lt Col C Senthil Kumaran of Defence Communication Node Sub Group Dabathawa.
7. IC-69894M Major Naresh Sharma of 93 Field Regiment.
8. V-661A Major Virender Pratap Rana of Central Military Veterinary Laboratory, Meerut.

.....Respondents

Ld. Counsel for the Respondents. : **Shri Amit Jaiswal,
Central Govt. Counsel**

ORDER

“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

(a). *Issue an order of direction in the nature of set aside the impugned order dated 24.09.2018 passed by the opposite party No. 3 enclosed as Annexure No 1.*

(b). *To reinstate the service of the applicant/petitioner on his original post in interest of service.*

(c). Issue any other order or direction which this Hon'ble Court may deem fit and proper in view of the facts and circumstances of the case.

(d). Award cost of the application in favour of the applicant.

2. Brief facts of the case giving rise to this application are that the applicant was enrolled in the Army on 18.09.2005. He was staying with Smt Sarojini (claiming her as his family) in outliving accommodation, wef 23.10.2013 and later he shifted to Government Married Accommodation on 01.03.2014. A case of family dispute between Smt Sarojini and Sigm Demudu Babu came to notice of authorities. Smt Sarojini filed application for maintenance allowance. A Court of Inquiry (Col) was held and applicant was found blameworthy for making false declaration regarding his marriage with Smt Sarojini as well as with regard to birth of two daughters. Summary of Evidence (S of E) was recorded and applicant was dismissed from service with six months rigorous imprisonment by a General Court Marshal (GCM). The applicant represented his case for reinstatement in service but his representation was rejected. Being aggrieved, applicant has filed instant Original Application for reinstatement in service.

3. In Original Application, learned counsel for the applicant has stated that the applicant was enrolled in the Army on 18.09.2005. Since date of enrolment, applicant performed his duties to the entire satisfaction of his superiors and no one had raised any allegation against him. Applicant is law abiding citizen and he was never involved in any case except the present false and fabricated case. At the time of joining the army, applicant was unmarried. Smt Rajana Sarojini entered in the life of applicant and after some time submitted application for maintenance allowance. The Army Welfare Wives Association, without any inquiry and without establishing the facts, forwarded documents to the department and the department without examining the reality took action against the applicant and passed the impugned order of discharge and rigorous imprisonment. The fact of the case is that, Smt Rajana Sarojini was married to Mr. Rajana Apparao, son of Ramunaidu. Two daughters named Miss Bhavya Lakshmi and Miss Niharika were born with the wedlock of Smt Rajana Sarojini and Mr. Rajana Apparao. Till date Smt Rajana Sarojini has not taken any decree of divorce from competent Court of law from her husband Mr. Rajana Apparao. Brother and parents of Smt Rajana Sarojini

attacked parents of the applicant and lodged police complaint against his parents and threatened that in case applicant does not give maintenance allowance, then they will kill his parents.

4. Learned counsel for the applicant in O.A. has mentioned that Smt Sarojini was married to Mr. Rajana Apparao and two daughters were born from the wedlock of Smt Sarojini and Mr Rajana Apparao. Applicant informed this fact to his superiors but no action was taken by them against the lady but contrarily action was taken against the applicant. Learned counsel for the applicant in O.A. has submitted that while passing any order of discharge against a Government servant, the conduct of the Government servant needs to be taken into consideration. Conduct of the applicant was not considered while dismissing applicant from service. The applicant sent representation for reinstatement in service but his representation was rejected. Learned counsel for the applicant in O.A. has prayed that impugned order of dismissal passed by the respondents be quashed and directions be issued to respondents to reinstate the applicant in service.

5. On the other hand, learned counsel for the respondents submitted that applicant stayed with his Smt Sarojini in outliving accommodation wef 23.10.2013 and shifted to Government Married Accommodation on 01.03.2014. A case of family dispute between Smt Sarojini and Sigm Demudu Babu (applicant) came to notice. Smt Sarojini demanded maintenance allowance from the applicant. Matter was investigated on 23.07.2015 to find out the correct position, through Zila Sainik Welfare Office. It was revealed that neither Smt Sarojini is legally wedded wife of the applicant nor both children are born out of wedlock of Smt Sarojini and applicant. Smt Sarojini was earlier married to Mr. Rajana Apparao, Son of Ramunaidu at Rajannapalem, Visakhapatnam, Andhra Pradesh during the year 2003.

6. Learned counsel for the respondents further submitted that applicant made false declaration of his marriage with Smt Sarojini and birth of two daughters in his service documents while serving in Western Command Signal Regiment, due to threat from the brother and parents of Smt Sarojini that they will kill his parents if he does not do so. Documents submitted by the applicant on verification were found forged. As per the

service documents of the applicant the lady was married to Sigmn Demudu Babu on 04.05.2008 and they have two daughters named Miss Bhavya Lakshmi and Miss Niharika. A case for grant of maintenance allowance was initiated on 28.02.2016. A Court of Inquiry (Col) was ordered to investigate the circumstances under which the individual had knowingly made false declaration about his marriage and birth of two daughters in his service records. The court opined that the applicant had submitted forged marriage certificate as well as birth certificate of two daughters for publishing Part II Orders. After hearing of charge, Summary of Evidence (S of E) was ordered and Pre Trial documents for GCM were forwarded to Headquarters Pashchim Uttar Pradesh Sub Area. On 28.11.2016, HQ Central Command intimated that as per AO 2/2001, maintenance allowance cannot be granted to Smt Sarojini as she is not legally wedded wife of the applicant. GCM of the applicant was held and applicant accepted that he had made false declaration while serving in Western Command Signal Regiment by producing false marriage and birth certificate. He further accepted that he made false declaration and claimed compensation in Lieu of Quarter and Children Education Allowance during the

aforesaid period amounting to Rs. 1,97,252/-. GCM was held on 24.09.2018 and concluded on 24.09.2018. Applicant was sentenced to rigorous imprisonment for six months in civil custody and finally he was dismissed from service on 24.09.2018. Learned counsel for the respondents pleaded that instant O.A. has no substance and is liable to be dismissed.

7. We have heard learned counsel for the parties and perused the documents available on record.

8. In the instant case, applicant has displayed a conduct which cannot be expected from a disciplined soldier. Police investigation report carried out by SHO Parawada, Vishakapatnam, reveals that the applicant in 2011, willingly promised to marry Smt Sarojini after her divorce in front of village Panchayat. We do not find any infirmity in the procedure adopted by the respondents to terminate the services of the applicant after ascertaining that applicant produced forged marriage and birth certificate and illegally claimed Compensation in Lieu of Quarter and Children Education Allowance. The order passed by the GCM was not under any influence or pressure and GCM was conducted

through the proper prescribed procedure and evidence was against the applicant. It was a fair trial after thorough examination of the records and facts, which was accepted by the applicant during the GCM and therefore, all allegations made by the applicant are baseless, misleading and manipulative. The applicant is not entitled to the relief prayed in Original Application to quash his discharge order and to allow him to be reinstated in service.

9. We, therefore do not find any merit in the application to interfere with the impugned discharge order passed by the respondent authority in terminating the services of the applicant. Consequently, the application being devoid of merit is liable to be **dismissed**. Resultantly, O.A. is **dismissed**.

10. No order as to costs.

11. Pending applications, if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated: April, 2022

ukt/-