

ARMED FORCES TRIBUNAL REGIONAL BENCH,

LUCKNOW

Original Application No. 88 of 2014

Friday the 18th day of September, 2015

(Court No. 2)

Hon'ble Mr. Justice Abdul Mateen, Member (J)
Hon'ble Lt. Gen. A.M. Verma, Member (A)

Shastri Ram Gonds (No. 6393174 N Nk/House Keeper), S/o Sri late
Markandy, 504 Army Service Corps Battalion C/o 56 APO

..... Applicant

By Shri R.Chandra, counsel for the applicant

Versus

1. Union of India through the Secretary, Ministry of Defence,
Government of India, New Delhi.
2. Chief of Army Staff, Integrated Headquarters of Ministry of
Defence (Army) DHQ, Post Office New Delhi.
3. General Officer Commanding-in-Chief, HQ Eastern Command,
Fort William, Kolkata-21 (W.B.)
4. A.S.C. Records (South), Post Agram, Bagalore-560007
5. Smt Meena Gond D/o Shri Ganga Ram R/o Sinchai Vibhag
Chouraha, Bandhawa, Post-Pirnagar, District Ghazipur.

..... Respondents.

By Shri V.K.Pandey, learned counsel for respondent no. 5 and Shri D.K.Pandey, learned counsel for other respondents alongwith Capt. Ridhishri Sharma, Departmental Representative.

ORDER

1. Heard Shri R.Chandra, learned counsel for the applicant, Shri V.K.Pandey, learned counsel for respondent no. 5 and Shri D.K.Pandey, learned counsel appearing for other respondents duly assisted by Capt Ridhishri Sharma, Departmental Representative.

2. By means of this O.A, the applicant has prayed for setting aside the order dated 14.06.2013 by means of which, the General Officer Commanding-in-Chief has rejected the application of the applicant against the grant of maintenance allowance to his wife and children and directed that the maintenance being given to the lady and his children be continued.

3. The applicant was enrolled in the Army in ASC as House Keeper. He had married respondent no. 5 Smt. Meena Gond and out of their wedlock, three children, namely, Km. Archana Gond, Km Sonya Gond and Shivam Gond were born. Thereafter, it appears, some differences between the husband and the wife arose, due to which Smt. Meena Gond went to her parent's house and started living there. She moved an application to the Army authorities with the prayer that she be awarded maintenance for herself and her three children, who have been turned out of the house by the applicant.

4. As per Army regulations, show-cause notice was given to the applicant and after examining the reply submitted by him on 12.5.2010 to the application moved by his wife for grant of maintenance as mentioned above, maintenance allowance to the tune of 33% to be deducted from his salary was granted to her and her children by the HQ under Army Act Section 91(i) and Army Order 2/2001.

5. It also comes out that in the year 2010, the applicant had filed a petition for restitution of conjugal rights being case no. 89 of 2010, which is still pending in the court of District Judge, Ghazipur.

6 It may be mentioned that subsequent to the order granting pension to the applicant's wife and his children, the applicant moved an application before the Army authorities with the prayer that the said order be set aside and the maintenance, which is being deducted from his salary and paid to his wife and children, be stopped, since despite his best efforts she is not coming to reside with him and perform her marital duties. This application/representation was made on 3.2.2011. Since no orders could be passed on the said representation by the Army authorities, the applicant preferred O.A.No. 330 of 2011 before this Court, which was disposed of with the direction to the respondents to dispose of the representation preferred by the applicant expeditiously, in accordance with law, by a speaking and reasoned order preferably within four months from the

date of filing of the said order, which has been annexed as Annexure A-16 to this O.A. In compliance with the said direction of this Court, the Army authorities considered the representation of the applicant and rejected the same vide order dated 14.6.2013, which has been impugned in this O.A.

7. It is the admitted case of the applicant that he had married respondent no. 5 Smt. Meena Gond and out of this wedlock, three children as mentioned above were born. The only objection of the applicant to the payment of maintenance to his wife and children is that his wife is not coming to live with him and perform her marital obligations, as such he prays the maintenance allowed to them be waived off.

8. We have gone through the impugned order dated 14.6.2013 and found that the authorities concerned have come to the conclusion that there are grave differences between both the parties, both making allegations and counter allegations against them. Not only this, it comes out from the representation, Annexure A-2 to the O.A, moved by respondent no. 5 that the applicant is intending to marry another woman.

9. In any case, we find that since the applicant has already filed a suit for restitution of conjugal rights which is pending in the court of District Judge, Ghazipur and it being the admitted case that the respondent no.5 is the wife of the applicant and out of this wedlock,

three children were born, there was no error in the order of Army authorities allowing maintenance to them to the tune of 33% from the salary of the applicant. It is the moral and legal obligation of the husband to maintain his legally wedded wife and children.

10. In view of above, the impugned order dated 14.6.2013 is perfectly justified and does not call for any interference. Accordingly, this O.A lacking in merit is hereby dismissed. No order as to costs.

(Lt. Gen A.M. Verma)
Member (A)

(Justice Abdul Mateen)
Member (J)

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