

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW**

ORIGINAL APPLICATION No. 380 of 2019

Wednesday, this the 6th Day of October, 2021

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

Army No. 15770255W Hav Randhir Singh S/o Amarpal, R/o Village - Dujai Ka Purva, Post –Patti, District - Pratapgarh (UP),

Posted at 406 Gun Missile Regiment, Nawgaon, Assam.

..... Applicant

Ld. Counsel for the Applicant : **Shri Akhilesh Tripathi, Advocate.**

Versus

1. Union of India through Secretary, Ministry of Defence, Government of India, South Block, New Delhi.
2. Commanding Officer 406 Gun Missile Regiment, Nawgaon, Assam.
3. Army Air Defence Records, Gopalpur Orrisa C/O 99 A.P.O
4. Principal Controller of Defence Accounts, Draupadi Ghat Allahabad.
5. Kiran Singh W/o Randhir Singh D/o Ram Khelawan Singh R/o Village – Naria, Police Station-Antu, District–Pratapgarh.

.....Respondents

Ld. Counsel for the Respondents. : **Dr. Shailendra Sharma Atal,
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:-

(i) Issue appropriate order or direction commanding the respondent authorities to correct the nomination in the service book of the applicant and make Smt. Kalawati Devi as the nominee of the applicant instead of his wife Kiran Singh which has been changed arbitrarily by the respondent authorities.

(ii) Issue appropriate order or direction commanding the respondent authorities to correct the nomination in the service book of the applicant and send the corrected nomination alongwith pension papers to the office of Principal Controller of Defence Accounts, Draupadi Ghat Allahabad, Respondent No.4 for preparation of PPO.

(iii) Issue any other order or direction which this Hon’ble Tribunal may deem fit, proper and necessary in the present facts and circumstances of the cases.

(iv) Issue any other suitable and equitable order or direction which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.

2. Brief facts of the case giving rise to this application are that the applicant was enrolled in the Army on 06.07.1999. The

applicant was married to Mrs Kiran Singh in the year 2000 and Part II Order of marriage was published. Two daughters born out of this wedlock. In the year 2004, relation between the applicant and his wife became strain. Mrs Kiran Singh left the house of her husband and started living with her parents. She filed a case in District Court for maintenance allowance which was allowed. Applicant filed case for divorce which is pending in District Court, Pratapgarh. Applicant prayed respondents to nominate his mother Smt Kalawati Devi as his next of kin instead of wife Mrs Kiran Singh. Respondents denied the prayer of the applicant. Being aggrieved, applicant has filed the instant Original Application.

3. Learned counsel for the applicant submitted that marriage of the applicant was solemnized with Mrs Kiran Singh in the year 2000 and two daughters namely Anuradha Singh and Anju Singh born out of this bed lock. Mrs Kiran Singh is permanently residing with her parents since 2004. Mrs Kiran Singh spent maximum time with her sister and brother in law who are staying at Delhi. Mrs Kiran Singh lodged several criminal cases against the applicant and his family. Applicant is paying maintenance allowance to Mrs Kiran Singh to the tune of Rs. 2000/- per month under Section 125 Cr.P.C. Applicant has filed

a petition under Section 13 of the Hindu Marriage Act seeking the decree of divorce annulling the marriage between the applicant and Mrs Kiran Singh and the matter is still pending. On 10.01.2018 Mrs Kiran Singh moved an application before the Army Wives Welfare Association, Ministry of Defence, New Delhi to include her name as nominee in the service Records of the applicant. Respondents without taking the consent of the applicant removed the name of his mother Smt Kalawati Devi as nominee from service documents of the applicant and substituted the name of Mrs Kiran Singh (wife) as nominee. The respondents are insisting for joint account of the applicant with his wife Mrs Kiran Singh for forwarding the papers to Principal Controller of Defence Accounts, Allahabad. Applicant is agree to keep Mrs Kiran Singh with him but she is unwilling to live with the applicant. Applicant tried his best to solved the issue but Mrs Kiran Singh does not want to live with the applicant. Learned counsel for the applicant prayed that since Mrs Kiran Singh (wife) is living separately from about 15 years, respondents be directed to remove the name of Mrs Kiran Singh (wife) from the service documents of the applicant and substitute Smt Kalawati Devi (mother) as his legal heir.

4. On the other hand, learned counsel for the respondents submitted that applicant is likely to retire from service on 31.07.2023 (AN). Applicant is drawing a sum of Rs. 44,735/- per month as salary. The applicant is SHAPE-1 Medical category and there is no Red/ Black ink entry in his Field Conduct Sheet.

5. The applicant was married to Mrs Kiran Singh in the year 2000 according to Hindu rites. Part II order of the marriage was not got published by the applicant. However the same has been published on 24.07.2018 based on the petition received from the lady. The matter was investigated by Record Office and it was found that couple has two daughters. First daughter named as Anuradha Singh born on 02.07.2001 and second daughter named as Anju Singh Born on 14.07.2003. Part II Order in this regard has been published on 24.07.2018 on the basis of petition received from the lady. Mrs Kiran Singh wife of applicant along with both daughters is staying with her parents from the year 2004 and applicant is living separately along with his mother Smt Kalawati Devi who is 65 years old. After birth of second daughter there was dispute between applicant and Mrs Kiran Singh. Mrs Kiran Singh filed a case in District Court, Pratapgarh with respect to dowry and a separate case under

Section 125 of IPC for grant of maintenance allowance. Her case for grant of maintenance allowance was allowed from December 2004 and she is getting Rs 2000/- per month as maintenance allowance. The applicant has filed a case in the Court of Civil Judge, District Court Pratapgarh under Section 13 seeking for divorce which is under process. Learned counsel for the respondent submitted that instant O.A. is devoid of merit and liable to be dismissed.

6. Heard learned counsel for the parties and perused the documents available on record.

7. From perusal of documents it emerged that applicant married to Mrs Kiran Singh and his case for divorce is pending before District Court, Pratapgarh. Mrs Kiran Singh is not willing to live with the applicant and she is living separately with her parents from about 15 years. In the present situation, as per service rule, Mrs Kiran Singh being legally wedded wife is legal heir of the applicant until and unless decree of divorce is obtained. If the case of the applicant is decided by District Court, Pratapgarh and decree of divorce is obtained then only name of Smt Kalawati (mother) can be entered in service documents of her son as his legal heir. In the present scenario, Smt Kalawati Devi (mother) cannot be declared as legal heir of

the applicant and her name cannot be recorded in service documents of her son.

8. In view of the facts and circumstances of the case, we find that Original Applicant filed by the applicant is devoid of merit and is liable to be dismissed.

9. Resultantly, O.A. is **dismissed**.

10. No order as to cost.

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

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

Dated: 06 October, 2021
Ukt/-