

E-Court

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 786 of 2021

Thursday, this the 28th day of April, 2022

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

HFO Arun Prasad Lal (Retd) (289648-K), S/o Sri Baleshwar Prasad Lal, R/o C/o Arvind Kumar Pal, 90D/2D Ponghat, Chakmundera, Prayagraj, Uttar Pradesh- 211012.

.... Applicant

Ld. Counsel for the: **Shri Rang Nath Pandey**
Applicant **and Shri Rahul Pandey,**
Advocate

Versus

1. Union of India through the Secretary, Ministry of Defence, Govt of India, South Block, New Delhi-110011.
2. Chief of Air Staff, Air Head Quarter, Vayu Bhawan, Rafi Marg, New Delhi, 110001.
3. Director III, AV (A&N), Air Head Quarters, Air Force Record Office Building, Subroto Park, New Delhi – 110010.

..... Respondents

Ld. Counsel for the: **Dr. Gyan Singh,**
Respondents. **Central Govt Counsel**

ORDER

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

1. The instant Original Application has been filed on behalf of the applicants under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicants have sought following reliefs:-

(a) To quash the impugned order/ letter dated 12.10.2021 sent to applicant by Respondent No 3, vide letter No Air HQ/99798/25/1/289648 SP (PRE-06)/DAV (C/F) by which the respondent No 3 has directed the applicant to produce any admissible evidence of marriage subsequent to 10.02.2017 or to produce a court decree establishing the marriage with Mrs Renu as legitimate (Annexures No A-1 to compilation No. 1).

(b) To direct the respondent No 3 to record the name of Smt Runu Lal as legally married wife/next of kin/ nominee of the petitioner in the service record of petitioner.

(c) To issue any suitable order or direction which this Hon’ble Tribunal may deem fit and proper under the present facts and circumstances of the case.

(d) To award the cost of the proceeding to the applicant.

2. Brief facts of the case giving rise to this application are that Ex HFO Arun Prasad Lal was enrolled in Indian Air Force on 08.07.1966 and retired from service on 30.09.2004 after

completion of about 38 years of service. Applicant was married to Smt Usha Lal and got her name entered in his service record. Wife of the applicant (Smt Usha Lal) died on 31.08.2006 and POR to this effect was published on 31.10.2014. Applicant re-married Smt Renu on 12.03.2014. In the year 2016, applicant came to know that the divorce petition filed by Smt Renu was still pending and Smt Renu has to appear before the Court. Ultimately divorce petition was decided vide order dated 10.02.2017 and a decree of divorce was issued. Applicant again married Smt Renu as per Hindu rites and rituals by adopting all the mandatory provisions of Hindu Marriage Act 1955 in presence of friends and relatives on 27.07.2017 and got his marriage registered by adopting all the formalities and a certificate dated 25.08.2017 was issued by Registrar Marriage, Prayagraj. Applicant applied for endorsing name of his 2nd wife in his service documents but the same was rejected. Applicant explained all the facts to respondents but name of Smt Renu Devi was not recorded in his service documents. Being aggrieved, applicant has filled instant O.A. for making entry name of Smt Renu as next of kin in his service documents.

3. Learned counsel for the applicant submitted that applicant was married to Smt Usha Lal and she died on 31.08.2006. Part II

Order of death of Smt Usha Lal was published on 31.10.2014. After death of his wife Smt Usha Lal, applicant found it very difficult to get on with his life and decided to marry a poor divorced lady namely Smt Renu having two sons and one daughter. He came to know through Shri SK Mishra, Advocate that Divorce petition No 1455 of 2013 filed by Smt Renu Vs. Pujari was decided and Smt Renu had taken divorce from her husband. Sri SK Mishra, Advocate also gave him forged certificate of marriage dated 02.07.2014 with Smt Renu which the applicant sent to respondents for making entry in his service record as next of kin. In the year 2016, applicant came to know that case of divorce filed by Smt Renu was pending and Smt Renu was required to appear before the Court. Ultimately, Divorce suit was decided on 10.02.2017 and decree of divorce was issued. Applicant again solemnised his marriage with Smt Renu as per Hindu rituals by adopting all the mandatory provisions of Hindu Marriage Act 1955 in presence of friends and relatives on 27.07.2017 and marriage certificate dated 25.08.2017 was issued by Registrar Marriage, Prayagraj. Applicant was directed by the respondents vide letter dated 02.09.2020 to explain the facts and circumstances of marriage done in the year 2014 and 2017 which was explained by the

applicant on affidavit vide explanation dated 23.09.2020. Applicant submitted decree of divorce and marriage registration certificate but respondents denied entry of name of his 2nd wife, Smt Renu in his service record. This O.A. has been filed by the applicant for notifying name of 2nd wife Smt Renu Devi as next of kin in his service record.

4. On the other hand, learned counsel for the respondents submitted that applicant had applied for change of next of kin on death of his 1st wife named Smt Usha Lal who died on 31.08.2006 and to endorse name of Smt Renu in his service documents by submitting death certificate of 1st wife Smt Usha Lal and marriage certificate dated 02.07.2014 with 2nd wife issued by office of the Registrar Marriage, Prayagraj. Documents received from the Air Veteran for re-marriage with Smt Renu (2nd wife) were incomplete. Applicant was asked to submit complete documents along with copy of decree of divorce of Smt Renu from her 1st husband Shri Pujari along with details of his re-marriage. In June 2020, applicant submitted complete details of his re-marriage with Smt Renu in the form of an affidavit along with photo copy of decree of divorce of Smt Renu from her 1st husband. On scrutiny of complete documents it was revealed

that applicant had submitted earlier marriage certificate dated 02.07.2014 in which he had mentioned that he got married to Smt Renu on 12.03.2014 whereas Smt Renu was granted decree of divorce from her husband on 10.02.2017. Marriage Registrar, Prayagraj was asked to clarify about the authenticity of both marriage certificates issued from their office. Air Veteran forwarded a clarification stating that he got married to Smt Renu on 12.03.2014 in the temple at Prayagraj by simply putting garland on each other, as he was not aware of the law that for a valid Hindu marriage, necessary formalities such as satpadi etc had to be completed under provisions of Hindu Marriage Act. Further, an advocate had wrongly advised him that Smt Renu has been granted divorce in her petition No 1455 of 2013 from her 1st husband named Pujari. He was provided forged Marriage Registration Certificate dated 02.07.2014 by the Advocate showing date of marriage as 12.03.2014. Now, office of Deputy Registrar Sadar, First, Prayagraj vide letter dated 13.07.2021 has clarified that as per their records, marriage between Arun Prasad Lal and Smt Renu has been registered on 25.08.2017 at Ser No 413. No other record regarding their marriage is available with their office. From above fact, it is revealed that firstly, the Air Veteran got married to Smt Renu on 12.03.2014 and submitted

forged/ fake marriage certificate and secondly, he married with Smt Renu prior to divorce from her 1st husband. In another application, the applicant has shown that his marriage with Smt Renu was solemnised on 27.07.2017 and marriage was registered on 25.08.2017. Since, applicant has submitted two marriage certificates of different dates, issued from the same office, the Air Veteran was asked to submit any admissible evidence of his marriage or to produce a court decree establishing his marriage with Smt Renu as legitimate for promulgation of POR for re-marriage and endorsement of family pension. Thus, his submission is that as per provisions contained in Hindu Marriage Act, 1955, the second marriage of the applicant with Smt Renu was solemnised without obtaining decree of divorce from her husband Shri Pujari and thus his marriage with her is considered null and void and cannot be accepted for publication as per policy constraint and not being in order. He pleaded that instant O.A. has no substance and is liable to be dismissed being devoid of merit and lacking substance.

5. We have heard learned counsel for the parties and perused the records.

6. The question before us to decide is 'whether name of Smt Renu (2nd wife of the applicant) should be entered as next of kin/nominee in service record of the applicant or not?

7. On perusal of documents, it appears that applicant was discharged from service on completion of more than 38 years of service and he is in receipt of service pension. He was married with Smt Usha Lal who died on 31.08.2006 and POR to this effect was published vide order dated 31.10.2014. After death of 1st wife, applicant married with Smt Renu. Shri SK Mishra, Advocate, informed the applicant that Smt Renu is a divorcee and she has three children. He prepared forged Marriage Certificate of applicant with Smt Renu dated 02.07.2014, showing date of marriage as 12.03.2014. Applicant submitted this marriage certificate to respondents for publishing POR which was not accepted by the respondents and applicant was asked to submit clarification.

8. From the aforesaid, an inference may be drawn that applicant solemnized marriage with Smt Renu on 12.03.2014 after death of his 1st wife Smt Usha Lal. The applicant was wrongly informed by Shri SK Mishra, Advocate that Smt Renu has taken divorce from her 1st husband Shri Pujari in February 2014.

Applicant solemnized marriage with Smt Renu on 12.03.2014 by garlanding each other. Divorce Petition No 1455 of 2013 Smt Renu Vs Pujari was decided vide order dated 10.02.2017 and decree of divorce was obtained. The applicant again solemnized marriage with Smt Renu on 27.07.2017 as per Hindu Rituals and Hindu Marriage Act 1955 and obtained marriage Registration Certificate dated 25.08.2017 from Registrar, Prayagraj. In the case in hand, whatever development took place was not deliberate but it occurred due to lack of knowledge of applicant regarding procedure of marriage registration. The applicant has explained each and every fact in his affidavit dated 23.09.2020. Though there may be some discrepancy in date of marriage and date of divorce in the certificates, but same being human error may be corrected as the applicant has not intentionally committed any illegality. Therefore, marriage of applicant with Smt Renu is legitimate and deserves notification by publishing POR showing Smt Renu as next of kin of the applicant.

9. Thus, in the result, Original Application succeeds and is **allowed**. Objection raised by the respondents rejecting to publish POR showing Smt Renu as next of kin of the applicant is overruled. Applicant is directed to submit documents, asked by

the respondents within one month from today. On receipt of documents, respondents shall publish POR showing the name of Smt Renu as legally married wife of the applicant. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of supporting documents from the applicant.

10. No order as to costs.

11. Pending application(s), if any, shall stand disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 28 April, 2022
Ukt/-