

(2012) 12 KAR CK 0064

In the Karnataka High Court

Case No : CCC (Civil) No"s. 786 and 997 of 2012

Major Vikas Kumar and Another

APPELLANT

Vs

Shashi Kant Sharma and Others

RESPONDENT

Date of Decision : 14-12-2012

Acts Referred:

Citation : (2013) 1 AKR 434

Hon'ble Judges : D.V. Shylendra Kumar, J;B. Manohar, J

Bench : Division Bench

Advocate : Aditya Sondhi, for the Appellant; S. Kalyan Basavaraj, ASG, for the Respondent

Judgement

D.V. Shylendra Kumar, J.—These contempt petitions are by the petitioners in W.P. Nos. 42998/2011 and 43760/2011 (GMRES). First petitioner - a serving army officer, had sought for permission to marry the 2nd petitioner - a foreign national, in the writ petitions, that having been refused, writ petitions had been filed. Writ petitions came to be disposed of on 7.12.2011 quashing the endorsement dated 19.09.2011 and also observed that the respondents therein shall consider the application of the 1st petitioner for relieving/resigning from the service in the army, and pass appropriate orders within a period of 60 days. It is thereafter, further writ petitions were filed in W.P. Nos. 9762 & 9763/2012, challenging the permission declined to 1st petitioner to resign from his post and relieve him from army services as per the endorsement dated 24.02.2012. This Court as per the order dated 18.6.2012 quashed the endorsement dated 24.02.2012 by allowing the writ petition and ordered that the request of the 1st petitioner for discharging shall be given subject to the respondents investigating and taking action in accordance with the rules and regulations of the army, which if they, so desire. It is thereafter the present contempt petition.

2. Notice had been issued to the respondents and counter-affidavit has been filed indicating the manner of compliance. Complainant No. 1 is still not satisfied pointing out that certain recoveries of money proposed as part of the order

permitting him to seek resignation by the accused persons, said to be incurred towards initial training period, is not, either bona fide or factually correct and that the complainant had in fact never undergone such training and nevertheless cost of training is sought to be recovered and such condition being made as part of the order, there is no full compliance with the order passed by this Court etc.

3. Thereafter Sri Kalyan Basavaraj, Asst. Solicitor General has placed before the Court a further affidavit of Lt. Col. S.S. Dagar pointing out that there is a mistake and a corrigendum dated 5.12.2012 has been issued indicating the terms of the order and copy has been furnished as Annexure R7 to the affidavit.

4. Mr. Aditya Sondhi, learned counsel appearing for the complainants on receiving instructions submits that to certain extent the grievance of the complainants is redressed. If the complainants are still not fully satisfied liberty may be reserved to such extent.

5. In this view of the matter, without prejudice to the rights and remedies of the complainants elsewhere in accordance with law, if they are still aggrieved with the order as is now clarified. Further contempt proceedings as against accused persons are dropped.