
(2005) 09 AHC CK 0154
In the Allahabad High Court
Case No : Writ Petition No. 5694 of 1988 (S/S)

Rajendra Bahadur Singh	Vs	APPELLANT
Union of India and others		RESPONDENT

Date of Decision : 09-09-2005

Acts Referred:

Citation : (2005) 09 AHC CK 0154

Hon'ble Judges : Rakesh Sharma, J

Final Decision : Dismissed

Judgement

Rakesh Sharma, J.—Heard Sri Subhash Vidyarthi, learned Counsel for the petitioner and Sri Sharad Kumar Srivastava, learned Standing Counsel appearing for the Union of India.

2. Under challenge is a communication dated 17.5.1988, by which the petitioner was informed that he had been discharged from military services for contracting plural marriage. The petitioner was serving as Havaldar in the Indian Army, having Hindu nationality. It emerges from record that he had contracted a second marriage on 22.11.1987 with one Smt. Manju Lala deserting his first wife Smt. Kushum Devi. As per learned Counsel for the petitioner, a civil suit for judicial separation was filed and the same was decreed on 5.9.1984. Thereafter a suit for formal divorce was filed by the petitioner, which was pending at the time of issuance of the show cause notice and the impugned communication. The said suit was decreed on 12.12.1991. Sri Subhash Vidyarthi, learned Counsel for the petitioner has further submitted that para 333 of the relevant Army Regulations of 1962 has not been carefully read by the Army authorities. The litigation was pending disposal between the petitioner and his erstwhile wife when the order of discharge was passed. The authorities should have awaited the decision of the competent Civil Court.

3. Learned Standing Counsel appearing for opposite parties has submitted that the petitioner's first wife Smt. Kusnum Devi had submitted a petition to the Army authorities that her husband, the petitioner had contracted a second

marriage and had deserted her. A show cause notice was issued to the petitioner on 18.2.1988, which was replied to by the petitioner the same day. After considering the reply of the petitioner, the appropriate authority had passed the order of his discharge from military services. The act of the petitioner was in violation"of para 333 of relevant Army Regulations of 1962, which prohibits plural marriage for Hindu nationals.

4. It is borne out from the record that the petitioner was having a decree of judicial separation only. There was not formal divorce till 12.12.1991. For all purposes, his marriage with Smt. Kushum Devi was subsisting when the showcause notice was issued on 18.2.1988 and on 17.5.1988 when the discharge order was communicated to him. The General Officer Commanding in Chief has terminated the services of the petitioner for contracting plural marriage with Smt. Manju Lala. This fact is established from the petitioner's own version and the material on record. I find no illegality or infirmity in the order passed by the appropriate authority,

5. Accordingly, the writ petition is dismissed. Petition dismissed.