

**COURT NO. 3, ARMED FORCES TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

**T.A. No. 205 of 2009**

**W.P.(C) No.3982 of 1996 of Delhi High Court**

**IN THE MATTER OF:**

**L/Nk Virender Singh** .....**Applicant**  
Through: Applicant in person

Versus

**Union of India & Ors.** .....**Respondents**  
Through: Mr. Anil Gautam, Counsel for the respondents

**CORAM:**

**HON'BLE MR. JUSTICE MANAK MOHTA, JUDICIAL MEMBER  
HON'BLE LT. GEN. Z.U. SHAH, ADMINISTRATIVE MEMBER**

**JUDGMENT**

**Date: 10/01/2011**

1. The petitioner/applicant filed this writ petition No.3982/1996 before the Hon'ble High Court of Delhi challenging his termination of service by discharge order dated 01.06.1996, under Army Rule 13(3) III (V) and DSR Para 333 on the allegation of plural marriage. He also made prayer in the petition that he be reinstated with all

consequential benefits. The writ petition was thereafter, transferred to this tribunal.

2. The brief facts of the case are that the applicant was enrolled in army on 15.03.1992. It is stated by the applicant that he married to Ms. Sumer Kanwar daughter of Choto Singh. Thereafter Mrs. Sumer Kanwar made a complaint against him on 25.07.1991 alleging ill-treatment and contracting second marriage with Kanchan Kanwar, daughter of Bane Singh. On that basis it is alleged that a Court of enquiry was ordered and show cause notice dated 07.09.1991 was also given to the applicant. It is alleged by the applicant that he never married with Kanchan Kanwar. His wife was suffering from fits. She made a complaint on the instigation of some persons, who were hostile to him. The applicant also stated that Court of enquiry was not properly conducted, interested officials, who were witnesses to the complaint, conducted the Court of enquiry. It is further contended that the applicant filed reply to the notice. Along with notice he also submitted proof of not contracting

marriage with Kanchan Kanwar. He also submitted her affidavit denying marriage with the applicant and other documents in proof of not contracting second marriage. The concerned authority however without giving due weightage to his version on the basis of false allegation terminated his services vide impugned order dated 01.06.1996. The applicant also made a representation against wrongful termination of services, but to no avail. A prayer is made to quash the said order dated 01.06.1996 and reinstate him in service with all consequential benefits.

3. The counter affidavit was filed by the respondent side stating, inter alia, that on 25.07.1991 a complaint was made by Smt. Sumer Kanwar, wife of the applicant, for ill-treatment being meted out to her by the applicant. In that complaint she also made allegation that applicant had married Smt. Kanchan Kanwar. She also claimed maintenance allowance in that complaint. On that complaint, applicant was directed to pay Rs.360/- per month as maintenance allowance. On the basis of that complaint a

show cause notice was issued on 24.03.1992 and in reply to show cause notice the applicant admitted the fact of having contracted plural marriage. The matter was forwarded to the higher authority and after obtaining sanction by the GOC-in-Chief again notice was given to the applicant for termination of services on 21.08.1995 and after due consideration his services were terminated. It was contended that in reply to show cause notice dated 26.03.1992 the applicant has not only admitted of having contracted plural marriage, but has also pleaded mercy for continuation of service. It was stated that the Court of enquiry had also confirmed that the applicant has contracted plural marriage. Considering the facts and the provisions of the DSR where plural marriage is prohibited the applicant was discharged being undesirable under the provisions of the Army rules 13(3) III (V) and DSR Para 333. A request was made to reject the application.

4. The applicant also filed rejoinder reiterating the grounds stated earlier.

5. Arguments were heard. During the course of arguments, the applicant, who himself argued the case, submitted that he was wrongly discharged. The Court of enquiry was not properly held. The factum of contracting second marriage was not established and his services should not have been terminated/discharged. During the course of arguments, the applicant admitted that he had contracted second marriage with Mrs. Kanchan Kanwar but it was for the respondent side to establish second marriage as per law. In that respect respondents failed to do so. Therefore, on that ground he should not have been discharged. He also cited the judgments given by the Hon'ble Supreme Court in case of ***Bhaurao Shankar Lokhande & Anr. vs. The State of Maharashtra & Anr*** (AIR 1995 SC 1564) and ***Smt Priya Bala Ghosh Vs Suresh Chandra Ghosh*** (AIR 1971 SC 1153), in support of his contention. A prayer was made to allow the application.

6. From the respondent side it was reiterated that in response to notice dated 24.03.1992 applicant had voluntarily

admitted the factum of second marriage. Therefore, there was nothing further to establish. During the course of Court of enquiry the applicant had also admitted that he contracted second marriage with Mrs. Kanchan Kanwar on 20.11.1988. Thereafter, the contentions of the applicant are an afterthought to deny the contracting of second marriage. The show cause notice was given in this respect to the applicant and after due consideration of his reply order of discharge had been passed after due sanction. The application is liable to be dismissed.

7. We have considered the rival submissions and perused the record. We have also perused the relevant record made available by the respondents. From the perusal of the record it is revealed that a complaint was made by wife of the applicant Mrs. Sumer Kanwar accusing him of contracting a second marriage with Mrs. Kanchan Kanwar. In that respect Court of enquiry was also ordered and during the Court of enquiry the applicant himself had appeared as witness and in his statement he had admitted contracting

second marriage with Kanchan Kanwar. From the perusal of the record it is also revealed that the show cause notice was given on 24.03.1992 giving full details of allegations to the applicant and the applicant filed his reply on 26.03.1992 admitting the factum of contracting second marriage.

8. During the course of arguments the applicant himself has admitted contracting of second marriage with Mrs. Kanchan Kanwar, but his main contentions are that as per law marriage has not been established by the respondent side. This contention is not sustainable, as he himself has admitted the factum of contracting a second marriage. We have perused the judgments cited by the applicant. They are related to panel offences where strict proof of second marriage is required. Thus they are not helping the applicant contentions. The fact of second marriage is admitted nothing remains to be proved.

9. We have also considered the other contentions. The termination/discharge order has been passed by the competent authority after the sanction. The applicant is not

entitled to any relief. On the basis of the aforesaid discussion, the application is liable to be dismissed. The same is, accordingly, dismissed. No orders as to costs.

**Z.U. SHAH**  
**(Administrative Member)**

**MANAK MOHTA**  
**(Judicial Member)**

**Announced in the open Court**  
**on the day of 10<sup>th</sup> January, 2011**