

COURT NO. 1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

45.

MA 2424/2024 IN MA 3957/2022 IN TA 4/2023

Smt Murti ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Sudhir Ahlawat, Advocate  
For Respondents : Mr. Shyam Narayan, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER  
05.09.2024

MA 2424/2024

This application filed by the respondents-(UoI) in TA 4/2023 concerns the maintenance granted under Section 91(i) of the Army Act, 1950. When the matter came up for admission on 04.07.2024 we issued notice to the applicant (Smt Murti), to explain why the maintenance granted under the Army Act, 1950 should not be discontinued in light of the order passed by the Additional Principal Judge, Family Court on 12.12.2023, and under the provisions of Army Order 06/2020/AG DV.

2. Having heard learned counsel for the parties, we find that the applicant were granted maintenance under Section 91(i) of the Army Act, 1950 vide an order dated 28.02.2023. Meanwhile, Smt. Murti initiated

proceedings under Section 24 of the Hindu Marriage Act, 1955, in the Family Court. The Family Court granted her interim maintenance on 12.12.2023 after analyzing various aspects and the evidence that came on record which are required for deciding a plea for interim maintenance. The question now before us as to what action is required to be taken in the matter once interim maintenance is now being granted to the applicant's wife by the orders of the Family Court.

3. Section 91 (i) of the Army Act, 1950 a part of chapter VIII pertaining to penal deduction from the pay and allowance from the officers contemplates a provision under Sub Clause (i) wherein the Central Government or the competent officers are authorised to pay maintenance to the wife or legitimate or illegitimate child of an officer for their maintenance and the detailed procedure and powers available for the grant of maintenance is laid down in Army Order 06/2020 AG/DV in Para 3 of the said Army Order wherein it is stipulated as under:-

*2. All personnel subject to the Army Act are legally and morally bound to maintain their wife and children, whether or not a harmonious relationship exists between them, subject to certain conditions which are elucidated subsequently. The issue of grant of maintenance allowance under these provisions of the Army Act arises after detailed examination of a complaint from the wife or from the child or on behalf of the child requesting the competent authority for the same. The powers to grant maintenance under the Army Act are independent of the provisions of the Code of Criminal Procedure, 1973 (Section 125 of Cr PC) or for that matter even*

*under Section 24 of the Hindu Marriage Act, 1954. A case for maintenance will be processed simultaneously while court proceedings are in progress. Such court proceedings do not debar the Army authorities to process and grant maintenance allowance to a petitioner subject to the conditions explained herein below.*

*3. In case the matter has already been adjudicated upon either under criminal or civil law and orders are passed, the individual is liable to comply with the said orders. Army authorities must deal promptly with orders received from Courts requiring Army authorities to make payment of maintenance allowance to the wife and children, directly from the pay and allowance of a serving person. In case a wife is already in receipt of maintenance allowance under the provision of the Army Act and a Court order to the same effect is passed, the court order will be given precedence and the sanctioned amount for the deductions shall be accordingly altered. The amount deducted as maintenance allowance shall not exceed the amount fixed by the decree or order passed by the Court.*

And further in Para 5 pertaining to procedure for processing maintenance allowances in Sub Para (m) the following provisions are made:-

*5 (m) With a view to encourage the wife to seek simultaneously redress through a Court of Law, the maintenance allowance will be initially granted for a finite duration, for a period of three years, while duly advising her to get the matter adjudicated through Civil Court. This period may be further extended by two years in case of non finality of the judicial process for which the applicant will be asked to submit proof at the end of three years. The practice of ensuring maintenance allowance through a Court of law should be encouraged and the rationale of a wife being rendered helpless in case an individual proceeds on premature retirement be advised to the lady.*

4. From the aforesaid, it is clear that grant of maintenance under Section 91 (i) of the Army Act, 1950 is a temporary measure and once maintenance is granted by the Court of Competent Civil or Criminal jurisdiction the Administrative order passed granting maintenance under Section 91 which is temporary or for a particular period of time, i.e., initial three years to be extended comes to an end and lapses.

5. In view of the above, we allow this application filed by the respondents- (UoI) vide MA 2424/2024 and direct that no further maintenance under Section 91(i) of the Army Act be granted to Smt. Murti. She should claim all future maintenance benefits through the Family Court, which has already issued an order for interim maintenance under the Hindu Marriage Act.

6. Accordingly, the MA stands disposed of.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

Ps  
MA 2424/2024