

**COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 940/2019 with MA 1833/2023

Hav Nepal Chhatria

.....

Applicant

VERSUS

Union of India and Ors.

.....

Respondents

For Applicant : Mr. Virender Singh Kadian, Advocate
For Respondents : Dr. Vijendra Singh Mahndiyan, Advocate

CORAM

**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

ORDER

The applicant 'No. 13759187F Hav Nepal Chhatria' vide the present OA makes the following prayers:-

"(a) Quash and set aside the impugned show cause notice issued vide letter No 3333/NMA/Hav Nepal Chhatria/SCN/DV dated 27.05.2019. And/or

(b) pass appropriate direction to the respondents to execute the Discharge Order No 09 issued vide letter No 1311/DO/CA-II(Disch)/09 dated 24.04.2018 by discharging the applicant from service wef 30.06.2019 on completion of terms and engagement of 24 years of service in present rank. And/or

(c) any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost against the respondents."

2. The applicant was enrolled in the JAK Rif Regiment of Indian Army on 28.06.1995 and was thereafter transferred to the Intelligence Corps on 16.05.2000. The applicant was married to Smt. Rashmita daughter of Smt. Madhu Nag on 04.05.2008 and was blessed with a son on 22.07.2011 named Master Pradyumna Chhatria from this wedlock at Village Sargul and the same stood published vide IHQ Camp part II order No 0/0093/003/2012.

3. The applicant in 2014 was selected to be posted to the Embassy of India, Cairo (Egypt) and as per standing instructions of the Embassy moved with Smt Rashmita Chhatria whilst he was posted with the Embassy of India, Cairo (Egypt), a lady named Smt. Manasmita forwarded an application to Mrs Namita Suhag, the President, Army Wives Welfare Association for maintenance allowance with a copy to the Commandant, Military Intelligence School and Depot.

4. On a Court of Inquiry being convened by the respondents, in relation to allegations of plural marriage by the applicant, in as much as in the Immunization card issued by the Base Hospital Delhi Cantt., the name of the mother of Master Pradyumna Chhatriya was mentioned as Mrs Manasmita

Chhatriya, the same indicated the alleged plural marriage of the applicant with Smt. Manasmita Chhatria (second wife) on **06.02.2020** during the subsistence of his first marriage with Smt. Rashmita Chhatria (first wife) and therefore the sanction of the General Officer Commanding- in-Chief, Western Command for initiating administrative action against the applicant for **termination of his services** as per provisions of Army Act 1950, Section 20 of the Army Act 1950 of the Army Rules 1954 r/w Rule 17 for contracting Plural Marriage in contravention of Para 333 (C) (c) of Regulations of the Army 1987 (Revised Edition) read with AO 44/2001/DV was accorded.

5. The applicant on repatriation to India from the Embassy of India (EOI), Cairo, Egypt was on 01.12.2016 posted to the Integrated Headquarters of the Ministry of Defence, Army Counter Intelligence Unit and was issued a Show Cause Notice vide letter no 3333/NMA/Hav Nepal Chhatria/ DV dated 27.05.2019, which is impugned by the applicant vide the present OA.

6. The applicant through the present OA has contended to the effect that Ms. Manasmita Nag was the surrogate mother of

Master Pradyumna Chhatriya, and was not the legally wedded wife of the applicant.

7. The applicant has submitted that a petition under Section 125 of the CrPC 1973 bearing no CMC 10/2017 was filed by Ms Manasmita Chhatriya against him herein seeking grant of the maintenance before the Court of the J.M.F.C, Saintāla, claiming to be the wife of the applicant, which he submits he has refuted.

8. As observed vide proceedings dated 25.04.2024, the respondents as per the counter affidavit were aware of the pendency of the said civil case.

9. The proceedings on the record of the present OA indicate that vide order dated 12.06.2019, it was directed that no further action be taken by the respondents with regard to the show cause notice served on the applicant with it being observed that the interim stay on the show cause notice would not be construed as any expression of the discharge of the applicant.

10. The said proceedings dated 12.06.2019 read to the effect:-

"Conceded position before us is that the applicant has to be discharged from service on 30th June, 2019 and the applicant is not seeking

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any relief whatsoever in that regard. The only grievance projected herein is with regard to the show cause notice (Annexure A-1) dated 27th May, 2019 originating from a communication dated 4th May, 2018 which, according to learned counsel for the applicant, gives an impression as if respondents are bent upon to take some decision detrimental to the applicant before he is discharged on 30th June, 2019. He has carved out certain grievances, which prima facie, are quite sound for showing indulgence of the Tribunal, therefore notice with regard to issuance of show cause notice only which is accepted by Dr. V.S. Mahandiyan, learned counsel appearing for the respondents making the service complete.

List it again on 16th July, 2019, meanwhile no further action be taken by the respondents with regard to show cause notice served upon the applicant. However, the applicant will file response to the show cause notice within the stipulated period as indicated in para 6 of the show cause notice. We make it clear that interim stay on show cause notice shall not be construed as any expression on discharge of the applicant. We may state here that learned counsel for the respondents has shown his opposition against the interim stay granted by us tooth and nail.

As requested, a copy of this order be provided DASTI to learned counsel for both sides."

11. Vide order dated 07.11.2019, it was brought to the notice of this Tribunal that the applicant had retired on 31.05.2019 and that the retiral benefits and pension had not been released to him. It was further observed vide order dated 07.11.2019 by this Tribunal that mere pendency of this matter should not stand in the way of settling the retiral benefits and pension of the applicant as per entitlement.

12. The applicant had submitted during the course of the hearing on 03.09.2019, as was reiterated on 25.04.2024 that the applicant had replied to the show cause notice dated 27.05.2019 on 29.06.2019, copy of which was submitted on record.

13. The respondents during the course hearing on 01/05/2025 submitted the order dated 15.01.2025 of the General Officer Commanding Delhi Cantonment in relation to the applicant which order reads to the effect:-

**"ORDERS BY THE GENERAL OFFICER
COMMANDING, DELHI AREA SHRI NEPAL SINGH
CHHATRIA FORMERLY NUMBER 13759187F
HAVILDAR/CLERK NEPAL SINGH CHHATRIA OF
INTEGRATED HEADQUARTER OF MINISTRY OF
DEFENCE (ARMY) COUNTER INTELLIGENCE UNIT**

*WHEREAS, I have perused the Show Cause Notice: dated 27 May 2019 issued to Shri Nepal Singh Chhatria, formerly Number 13759187F Havildar/Clerk Nepal Singh Chhatria of Integrated Headquarter of Ministry of Defence (Army) Counter Intelligence Unit under the provisions of the Regulations for the Army (Revised Edition) 1987 the *** 2019 order of Hon'ble Armed Forces Tribunal ***** Tribunal in this regard.*

AND WHEREAS, as Shri Nepal Singh Chhatria, formerly Number 13759187F Havildar/Clerk Nepal Singh Chhatria of Integrated Headquarter of Ministry of Defence (Army) Counter Intelligence Unit has ceased to be subject to the provision of Army Act with effect from 30 June 2019 no further action can be taken in respect of show cause notice issued 27 May 2019 for contracting plural marriage in contravention of provisions of para 333 (c) of the Regulations for the Army.

NOW THEREFORE, I hereby direct that the case be treated as closed.”_-

whereby the case i.e. in relation to the show cause notice dated 27.05.2019 issued to the applicant who has ceased to be subject to the provisions of the Army Act with effect from 30th June 2019 and for whom no further action can be taken in respect of the show cause notice issued to him on 27/5/2019 for contracting a plural marriage of the Regulations for the Army, - has been treated to be closed.

14. Apparently thus, as the show cause notice does not survive and the applicant has been discharged from service on 30th June 2019 on completion of his terms of engagement, taking into account that no disciplinary action is now contemplated to be taken against the applicant in view of the closure of the show cause notice no. 3333/NMA/Hav Nepal Chhatria/SCN/DV dated 27.05.2019, it is apparent that the applicant is entitled to all retiral benefits as due to him in accordance with law.

15. The PPO be accordingly issued and arrears be paid within two months and all retiral benefits due to the applicant be paid accordingly from the date of receipt of this order failing which, interest @ 6% ^{p-a} would be liable to be paid by the respondents to the applicant on all arrears till the date of payment.

16. All pending applications are disposed of accordingly.

Pronounced in the open Court on 15 day of May, 2025.

[REAR ADMIRAL ~~DHIREN VIG~~
MEMBER (A)]

[JUSTICE ANU MALHOTRA]
MEMBER (J)]

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