

**ARMED FORCES TRIBUNAL CHANDIGARH REGIONAL BENCH
AT CHANDIMANDIR**

O.A No. 72 of 2010

Baljit Singh	...	Petitioner
v.		
Union of India and others	...	Respondents

ORDER

01.07.2010

Coram Justice N. P. Gupta, Judicial Member
 Lt Gen H. S. Panag (Retd), Administrative Member

For the Petitioner Mr. R. K.Arya, Advocate

For the Respondents Ms Urmil Gupta, CGC

Justice N. P. Gupta

The petitioner has filed the present petition seeking a direction to the respondents to consider the appeal of the applicant and pass appropriate orders.

Necessary facts, as alleged in the petition, are that the applicant was enrolled in the Army on 30.05.1995. However, after serving for more than 12 years and 11 months, his services have been terminated vide Annexure P-3 dated 01.10.2007. It is alleged by the petitioner that his marriage was solemnized with Malkeet Kaur on 25.03.1998 and out of the wedlock, two children were born. However,

after 7-8 years, Malkeet Kaur developed physical relations with one Sukhwinder Singh and wanted to maintain them and on that ground she had already taken divorce from the petitioner. In such circumstances, the petitioner obtained a decree for dissolution of marriage by mutual consent on 17.02.2007. However, the petitioner has been terminated on the ground of plurality of marriage, on 01.10.2007. The petitioner filed appeal against that order, but to no response. With this, it is alleged in later part of the petition, that the petitioner has been punished for the offence which he has not committed, therefore, the order of termination dated 01.10.2007 is illegal, null, void and contrary to the material evidence available on record, to amplify we may notice here that in the entire petition, it is not alleged by the petitioner that the petitioner at all contracted a second marriage.

However, as we find from Annexure P-4, being Appeal, said to have been filed on 03.01.2008, that in Para 7, it is alleged that the appellant solemnized second marriage much after the grant of decree of divorce from his first wife, i.e. in the year 2008. Therefore, the impugned order of termination is against the facts as well as law. We may observe that by the time this document purports to have come into existence, year 2008 had hardly commenced so as to leave any time for the petitioner to allege the second marriage to have been solemnized in the year 2008.

Be that, as it may, what we find from the reply is that a categorical case has been settled to the effect that the petitioner earlier filed a petition for dissolution of marriage on 09.02. 2005,

which was pending and was fixed for 24.03.2006. However, on 16.02.2006, Malkeet Kaur complained that the petitioner has re-married with Kanwaljit Kaur and this fact was accepted by the petitioner in the form of his statement, photo copy whereof has been produced as Annexure R-1. A look at that shows that the petitioner has categorically stated as under: -

“ It is true that before the matter was decided by the Court, my marriage had taken place with Kamaljit Kaur daughter of Dalip Singh of Talwara, Post Office Shri Hargobindpur, Tehsil Batala, District Gurdaspur on 07.02.2006.”

Then, it is also pleaded that this fact was confirmed at SWB, Gurdaspur, Annexure R-2. Thus, the petitioner remarried without getting legal divorce from the first wife. It is, then, alleged that the petitioner had filed the said petition on 09.02.2005 under Section 13-B of the Hindu Marriage Act and was subsequently allowed on February 17, 2007. Thus, it is clear that the petitioner contracted second marriage during the subsistence of first wife and, therefore, has been rightly subjected to action vide Annexure P-3. Regarding Appeal, it was contended that no such Appeal has at all been received by the authorities concerned.

From perusal of the record, we do not find any material even prima facie to satisfy ourselves that if any Appeal was sent in January, 2008 or at any time later on, has ever been sent. On the face of Annexure R-1, and recital in Annexure P-4, it is clear that the petition is replete with suppression of material facts and rather mis-

statement of facts. The correctness of Annexure R-1 has not been controverted by the learned counsel for the petitioner even so far before us.

Then, taking Annexure P-4 on the face value, it cannot be believed that the petitioner contracted second marriage in the year 2008. Then, in Annexure R-1, he has categorically admitted to have contracted second marriage on 07.02.2006, while the decree for dissolution of first marriage was passed admittedly on 17.02.2007. Thus, it is clear that the petitioner did contract second marriage during the subsistence of the first marriage.

Thus, taking an overall view, we do not find any error in the impugned order, Annexure P-3, requiring any interference by this Tribunal. Accordingly, this petition is dismissed, being devoid of any merit.

[Justice N. P. Gupta]

[Lt Gen H. S. Panag (Retd)]

July 01, 2010

RS