



Serial No. 08
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 452 of 2022

Date of Decision: 25.06.2024

Shri. Ganga Sagar Ram
S/o (L) Umasankar Ram
R/o Chief Secretary Compound,
Bishop Cotton Road, Shillong-793004
East Khasi Hills District, Meghalaya

:::Petitioner

-Vs-

1.The Union of India
Represented by Secretary of Government
of India
The Ministry of Home Affairs, New Delhi

2.Mahaniveshalaya, Assam Rifles Director
General of Assam Rifles, (A branch)
(Discp)/Law/VIG/Record branch/CPBO
(AR)/ARGIS Dte Shillong 10

3.Inspector General Assam Rifles(North)
C/O 99. APO

4.Deputy Inspector General, Assam Rifles
Headquarter, 7 Sector, Assam Rifles,
C/O. 99 APO

5.15 Assam Rifles, PIN – 932015,
C/O. 99 APO

:::Respondents



Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. M.L. Nongpiur, Adv.

For the Respondent(s) : Mr. R. Debnath, CGC.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

Oral:

1. The writ petitioner who was serving as Rifleman (GD) with the respondents Assam Rifles, by way of the instant writ application is seeking to set aside and quash the impugned show cause notice dated 16.09.2017, and impugned orders dated 06.04.2018 and 23.05.2018, whereby he has been discharged from service. The main grounds as set out by the writ petitioner are that the cause or allegations on which the respondents initiated the disciplinary proceedings, which had culminated in his discharge were no longer available, inasmuch as, the departmental proceedings had been drawn up, on the charge that he has contracted a second marriage, during the subsistence of the first marriage, and thus had invited the operation of



Rule 10(2) of the Assam Rifles Rules 2010, were made after he had already obtained a divorce.

2. Mr. M.L. Nongpiur, learned counsel for the writ petitioner has submitted that the writ petitioner was duped into a second marriage during the subsistence of his first marriage and that the same was dissolved by order dated 31.10.2016, on a mutual divorce being obtained from the Court of competent jurisdiction. As such, he contends that on the date i.e. on 16.09.2017, when the impugned show cause notice was issued, the petitioner was not married to any other person except his first wife. He further submits that in this view of the circumstances, the punishment of discharge from service ordered by the respondents is disproportionate. He therefore prays that this Court pass appropriate orders with regard to the reduction in quantum and to allow him to resume service with the respondents.

3. Mr. R. Debnath, learned CGC for the respondents has only submitted that there is no defect or illegality in the order passed by the disciplinary authority, inasmuch as, the petitioner had been offered adequate opportunity to defend himself, and on being found guilty of the offence as charged, had therefore been discharged from service, as per Rule 10(2) of the Assam Rifles Rules 2010.



4. I have heard learned counsel for the parties. In the course of the proceedings, as to ascertain the correctness of the procedure adopted by the Assam Rifles respondents, this Court had called for the records of the Court of Inquiry, which had been produced today by the learned CGC. A perusal of the records as placed, clearly shows that the writ petitioner had been given adequate opportunity and had also tendered his disposition where he has stated the entire facts. It is noted from the deposition that the writ petitioner does not deny the fact that he had contracted a second marriage, though as per his version he had been tricked into the same. In the evidence adduced, the writ petitioner had also deposed that a mutual divorce had been filed.

5. As seen from the findings of the Court of Inquiry, which had recorded the deposition, it was found that the writ petitioner had contracted a second marriage on 27.05.2014, during the subsistence of his first marriage, and to this effect a marriage certificate had been exhibited, which was not denied. A detailed examination of the Court of Inquiry proceedings also shows that there has been no irregularity or any other infirmity in the said proceedings to warrant any interference by this Court.

6. Rule 10(2) of the Assam Rifles Rules 2010 has at Chapter – III, thereof has provided as follows.

“10.Ineligibility.- (1)



(2) Any person subject to the Act, who contracts or enters into a second marriage during the life time of his first spouse, shall render himself ineligible for retention in service and may be dismissed, removed or retired from service on ground of unsuitability.

Provided that the Central Government may, if satisfied that there are sufficient grounds for so ordering, exempt any person from the operation of this rule.”

7. As provided by the said Rule, as the petitioner had contracted a second marriage during the life time of his first spouse, he therefore had rendered himself ineligible for retention in service.

8. Accordingly, on the facts and circumstances of the case, no grounds of interference is made out and the writ petition accordingly stands dismissed.

9. Records are hereby returned to the learned CGC.

Judge

Meghalaya
25.06.2024
“D.Thabab-PS”

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