

GAHC010077112018



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2610/2018

NO. G/95659 RFN/GD SHAREEF ANWAR
43 ASSAM RIFLES, C/O- 99 APO, PIN- 932043

VERSUS

THE UNION OF INDIA AND 4 ORS.
REP. BY THE SECRETARY TO THE MIN OF HOME AFFAIRS, NORTH BLOCK,
NEW DELHI- 110001

2:DIRECTOR GENERAL
ASSAM RIFLES (A BRANCH)
SHILLONG
MEGHALAYA- 793010

3:INSPECTOR GENERAL OF ASSAM RIFLES (SOUTH)
C/O- 99 APO
PIN- 932555

4:COMMANDANT
43 ASSAM RIFLES
C/O- 99 APO
PIN- 932043

5:NOORJAHAN KHATOON
D/O- MD. MUSTAFA
ORIGINAL R/O- KMIN EX COLONY
P.O- BUDH BAZAR
P.S- DAMAULI
DIST- LAKHIMPUR
PIN- 78703

Advocate for the Petitioner : MR. S K DAS, MR R KARIM,MS. M BHATTACHARJEE,MS. K

YADAV,MR. R L YADAV

Advocate for the Respondent : ASSTT.S.G.I., MR. K GOGOI (C.G.C.),MR. M PHUKAN, CGC. (R1 TO 4),MS D BORGOHAIN (R5),MS. M SARMAH (R5),MR. P GOHAIN (R5),MS. B PHUKAN (R5)

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO**

ORDER

02.09.2024

Heard Mr. R.L. Yadav, learned counsel for the petitioner who submits that the petitioner is serving as Rifleman/General Duty (GD) under the 43 Assam Rifle C/o 99 APO and he is aggrieved with the order passed by the Inspector General of Assam Rifles dated 24.02.2014 (Annexure-1) by which in exercise of the powers conferred under Section 69 (i) of the Assam Rifles Act, 2006, the IGAR has accorded sanction for deduction of 22% per month from the pay and allowances of the petitioner for payment to the respondent No. 5 who is the wife for maintenance of herself. The learned counsel submits that the deduction made from his pay and allowances should be interfered with by the Court in view of the fact that the respondent No. 5 has now got married again for the third time with another person and therefore, the petitioner is not liable to maintain her. The learned counsel submits that in support of the contention of the petitioner, there are photographic evidence as well as the Marriage Certificate issued by the Quazi Concerned and as such, the impugned sanction order dated 24.02.2014 should be set aside.

[2.] The said submission is opposed to by Mr. K. Gogoi, learned CGC as well as Ms. D. Borgohain, learned counsel for the respondent No. 5 and they submit that there is no dissolution of marriage as such and the allegation made by the petitioner is totally denied. They also submit that at any rate, the factum of the respondent No. 5 having remarried to another person is an issue which can only be proved before a competent Civil Court and this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India may not decide the case regarding the marriage or otherwise of the respondent No. 5 for the third time.

[3.] The learned counsel for the petitioner submits that the petitioner may be allowed to file a representation before the respondent authorities concerned and that they may be directed to consider and dispose of the representation by way of a speaking order. The suggestion made by the learned counsel for the petitioner is not opposed to by the learned counsels for the respondents.

[4.] In view of above, the petitioner shall submit a concise representation by enclosing all the relevant materials he wishes to rely upon in support to his claim that he is no longer liable to maintain the respondent No. 5 within a period of three (3) weeks from today to the Inspector General of Assam Rifles (respondent No. 3) through the Commandant, 43 Assam Rifles. The said authority upon receipt of the same shall consider the representation and give the parties concerned an opportunity of personal hearing and thereafter take a decision by way of a

speaking order. Such an exercise be done and completed within a period of three (3) weeks from the date of receipt of the representation. The continuation of the payment of maintenance by the petitioner would be governed by the order to be passed by the Inspector General of Assam Rifles.

[5.] Writ petition stands disposed of.

JUDGE

Comparing Assistant