

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.153 of 2019

In
Civil Writ Jurisdiction Case No.1592 of 2019

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Srinshilabibi @ Sirin Shila Khatun@Srinshilabibi D/o Tarikat Sheikh, W/o
Tansen Sekh @ Tansen Shika R/o Village-Nima Bahadurpur, P.O.-Gramshlika
P.S.-Burwan, District-Murshidabad (West Bengal).

... .. Petitioner/s

Versus

1. The Union of India The Ministry of Home Affairs through the Commandant, 45th Battalion, Sashastra Seema Bal, Birpur, Supaul
2. The Commandant 45th Battalion, Sashastra Seema Bal, Birpur, Supaul
3. Deputy Commandant 45th Battalion, SashastraSeemabal, Birpur, Supaul.
4. Tansen Sekh @ Tansen Shika S/o Rahmatullah Sheikh R/o Village- and P.O.-Salika, P.S.-Burwan, District-Murshidabad (West Bengal).

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Giri, Advocate
For the Opposite Party/s : Mr. Awadhesh Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 14-08-2019 The petitioner (private respondent no. 4 in the writ petition) seeks review of the order dated 30.01.2019 passed by this Court in C.W.J.C. No. 1592 of 2019.

At the very outset, it is relevant to state here that there has been a typographical error in the cause title of the order dated 30.01.2019. There was a single petitioner in that case, namely, Tansen Sekh @ Tansen Shika and Smt. Sirinshilabibi @ Sirin Shila Khatun @



Srinshilabibi, who has been shown as petitioner no. 2, was actually Respondent No. 4 in the writ petition. However, both Tansen Sekh @ Tansen Shika and Smt. Sirinshilabibi @ Sirin Shila Khatun @ Srinshilabibi have been shown as petitioners. This mistake is remedied and the order dated 30.01.2019 be understood to have been passed in the case of Tansen Sekh @ Tansen Shika.

It appears that Tansen Sekh @ Tansen Shika, who is Opposite Party No. 4 in the present review petition had approached this Court *vide* aforesaid C.W.J.C. No. 1592 of 2019 challenging the order dated 11.04.2018 passed by the Commandant, 45th Battalion, SSB, Birpur, Supaul, whereby Rs. 10,000/- (ten thousand) had been directed to be deducted from the salary towards maintenance of the applicant herein, who was private-respondent no. 4 in the writ petition. This Court upheld the order, against the challenge that the Commandant in the absence of any corresponding order from the Government could not have passed the order of



deduction and was only responsible for executing the orders passed by the Central Government.

The aforesaid contention on behalf of the husband was rejected on the ground that since he is a Constable, the authority to pass orders of deduction for payment of maintenance to his family lies with the Commandant and not the Government. However, the other argument of the husband was taken note of that the Commandant did not examine the *factum* of a *vinculo-matrimonii* and had passed an order. The husband of the petitioner therein, therefore, was directed to make application before the Commandant, 45th Battalion, SSB, Birpur, Supaul to revisit the order and consider that aspect of the matter as well.

It appears that the contents and the drift of the order passed in C.W.J.C. No. 1592 of 2019 was not understood properly and merely on the application preferred by the husband / petitioner, the maintenance amount was stopped to be deducted from the salary of



the husband.

Whether the order is correct or is worthy of challenge can be looked into in a fresh writ petition and not by way of review of the earlier order.

The petitioner / revisionist would be well advised to challenge the aforesaid order dated 13.03.2019 passed by the 2nd-In-Command, UIN 13110002, 45th Bn SSB, Birpur (Bihar) in an appropriate proceeding / writ petition.

Since there is no good ground for reviewing the earlier order, which perhaps appears to have been misunderstood by the concerned officer, the petition for review, however, is dismissed with the aforesaid observation.

(Ashutosh Kumar, J)

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