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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2021

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.39306 of 2005

S.Maheshwari
W/o.Srinivasan

...Petitioner

-Vs.-

1.The Commanding Officer
5, Engineering Regiment
C/o.56, Army Post Office.

2.The Officer Commanding
OTA, Madras
St. Thomas Mount
Chennai-16.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to dispose of the representation sent by the petitioner on 16.10.2005 in accordance with law.

For Petitioner : Ms.S.Kanimozhi
for M/s.K.Sumathi

For Respondents : Ms.Chandra Priya .C
for M/s.P.Wilson Associates

O R D E R

Ms.S.Kanimozhi, learned counsel representing the counsel on record for sole writ petitioner and Ms.Chandra Priya.C of M/s.P.Wilson Associates (Law Firm) on behalf of both respondents are before this Virtual Court.

2. Captioned writ petition turns on a very narrow compass. Owing to the nature of prayer in the main writ petition, it is not necessary to dilate much on facts. Suffice to say that it is the case of the writ petitioner that she married to one P.Srinivasan, who according to writ petitioner, was serving as L/NK No.15312483 A at 5, Engineering Regiment, thereafter, served at OTA Madras, St.Thomas Mount, Chennai-600 016 and he deserted her about 17 days after marriage.



3. This Court, with the consent of the aforementioned two learned counsel on either side took up the main writ petition and the same is being disposed of, as prayer in the writ petition is simple and innocuous. To be noted, prayer in the writ petition is for a mandamus to dispose of the representation dated 16.10.2005 sent by the writ petitioner to respondents and representation touches upon request for maintenance under Section 91(i) of the Army Act, 1950 [Act No.46 of 1950] read with Rules thereunder.

4. Learned counsel for respondents submits that they have instructions from respondents and according to respondents, no person by name P.Srinivasan was in their service/force.

5. However, considering the narrow scope of prayer in the writ petition, this Court deems it appropriate not to express any opinion or view on the merits of the matter or on the aforementioned submission made by learned counsel for respondents.

6. This Court notices that the representation sent on 16.10.2005 is through a lawyer. Whether a legal notice can be considered as a representation to the noticee/addressee is a vexed question.

7. Faced with the above situation, advertng to representation at page No.1 of typed set of papers, learned counsel for writ petitioner submits that it has emanated from the writ petitioner (though mailed through her counsel) and therefore, it may please be treated as representation from the writ petitioner. This request is acceded to in this matter as an exception considering the nature of representation, besides the facts and circumstances of the case on hand.

8. The aforementioned representation has been sent to both the respondents. This Court is informed that the representation will be disposed of by the first respondent (addressee No.1 in the representation).

9. Captioned writ petition is disposed of, directing the first respondent to dispose of the representation dated 16.10.2005 from the writ petitioner [Pages 1 to 2 of typed set of papers] by written communication by examining the representation on its own merits and in accordance with law, uninfluenced by anything contained in this order (except the direction to dispose of the representation) within a fortnight i.e., on or before 20.08.2021. Though obvious it is made clear that it is open to the first respondent to dispose of the representation on the lines of submission before this Court (captured in paragraph No.4 supra) if that be so. Disposal of



the representation shall be duly communicated to the writ petitioner under due acknowledgment within one week therefrom i.e., on or before 27.08.2021. This draws the curtains on this simple writ petition.

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10. The captioned writ petition is disposed of with the above direction. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Commanding Officer
5, Engineering Regiment
C/o.56, Army Post Office.

2.The Officer Commanding
OTA, Madras
St. Thomas Mount
Chennai-16.

+1cc to M/s.P.Wilson Associates, Advocate, S.R.No.39159

W.P.No.39306 of 2005

PL(CO)
RGA(01/09/2021)