

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

111

CWP-22306-2023
Date of decision: 05.10.2023

PREETI THAKURPetitioner

VERSUS

UNION OF INDIA AND OTHERSRespondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Navdeep Singh,
Mr. Atul Aggarwal, Ms. Jasneet Kaur, and
Ms. Apoorva Pushkarna, Advocates
for the petitioner.

Mr. Parvesh K. Saini, Senior Panel Counsel
for respondents No.1 and 2-Union of India.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present petition is to the limited part of paragraph 3 of the impugned order dated 22.11.2022 wherein the maintenance allowance to the petitioner has been ordered to be discontinued.

Counsel for the petitioner contends that he does not intend to challenge the above said order dated 22.11.2022 on merits thereof and that the above said challenge is being restricted only to the use of the words “**On the ground of adultery**” in paragraph 3 of the said order. It is submitted that Colonel Sanjay Sharma was convicted by the General Court Martial for his conduct unbecoming of an officer and that there was no charge of adultery in the said proceedings initiated under Section 45 of the Army Act.

Notice of motion.

Mr. Parvesh K. Saini, Senior Panel Counsel appears and accepts notice on behalf of respondents No.1 and 2-Union of India. He prays for some time to complete instructions.

However, taking into consideration the prayer made above and considering that the above said prayer shall not have any final bearing on the outcome of the present case and accepting the contention of the petitioner for the purposes of the present petition only, that the conviction of Colonel Sanjay Sharma was not on a charge of adultery but on a conduct unbecoming of an officer without leveling the allegations and/or recording a finding of adultery, the above said words “On ground of adultery” are ordered to be deleted.

The paragraph 3 may hence be read as under:-

“Having duly considered the application of the lady alongwith the comments pertaining thereto by her husband IC-64833L Lt. Col Sanjay Kumar and the supporting documents, it is revealed that the contention of Lt. Col. Sanjay Kumar for non-admissibility of maintenance allowance is supported by conviction of Col. Sanjay Sharma by General Court Martial for the offence under Section 45 of the Army Act.”

In the event, any of the aforesaid fact is found to be incorrect, either of the party aggrieved is at liberty to seek revival of the present petition.

The present writ petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

OCTOBER 05, 2023

Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No