



2024:DHC:9179-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 27.11.2024

+ W.P.(C) 6933/2021

SHEENA GOEL

.....Petitioner

Through: Ms. Shobhana Takiar and Mr.
Prateek Dhir, Mr. Shivam
Takiar and Mr. Kuljeet Singh,
Adv.

Versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Farman Ali, SPC with Ms.
Usha Jamnal, Adv. with SAG.
Rohit Sharma for R-1.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner seeking the following reliefs:-

*“a. issue a writ of mandamus directing the respondent to grant the Maintenance Allowance to the petitioner from the date of her application, i.e. 25.11.2019, and
b. issue directions to the respondent to facilitate dependent cards to both children of the petitioner, viz., Anaysha Gupta and Agastey Veer Singh,”*

2. It is the case of the petitioner that the petitioner married the respondent no. 2 under Section 12 of the Special Marriage Act, 1954,



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on 21.01.2015. From the wedlock, they have been blessed with two children, born on 21.12.2017 and 15.03.2020. She left her matrimonial home on 12.10.2019, and later, on 25.11.2019, she applied for the grant of maintenance allowance in terms of the Air Force Order No. 03/2013, issued by the Chief of Air Staff on 06.02.2013.

3. The respondent no. 1 informed the petitioner that the said application was not in the requisite format because of which the petitioner re-submitted her application on 23.12.2019 in the prescribed format.

4. The petitioner was finally communicated an order dated 30.09.2020, conveying the sanction of deduction of Rs. 34,100/- per month from the pay and allowance of respondent no. 2, however, with effect from September 2020, as the maintenance allowance to the petitioner.

5. The petitioner has filed the present petition claiming that the maintenance amount should be paid to the petitioner from the date of her application and not from the date of the order.

6. The learned counsel for the respondent no. 1 submits that the case for general instructions on the date of payment of the maintenance amount was placed before the Ministry of Defence, which has opined that since the award of maintenance allowance is for a period of five years, same cannot be granted retrospectively and should be from the date of the order. He submits that, therefore, in the present case, the maintenance has been rightly awarded from the date of the order, that is, 30.09.2020.

7. We are afraid, we cannot accept the submission of the learned



counsel for the respondent no. 1.

8. In ***Rajnish v. Neha & Anr.***, (2021) 2 SCC 324, the Supreme Court has held that the maintenance should be payable from the date of the application seeking such maintenance. We may quote from the Judgment as under:-

“113. It has therefore become necessary to issue directions to bring about uniformity and consistency in the orders passed by all courts, by directing that maintenance be awarded from the date on which the application was made before the court concerned. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.”

9. In the present case as well, the petitioner had applied, in a proper format, for grant of maintenance to the respondent no. 1 on 23.12.2019. The maintenance should, therefore, have been granted to the petitioner with effect from that date.

10. At this stage, the learned counsel for respondent no. 2 submits that he has been denied visitation rights over the children born from the wedlock. We are afraid that any relief in this regard cannot be granted in this petition. It shall be open to the respondent no. 2 to avail of his remedies in accordance with law.

11. In view of the above, the present petition is disposed of directing the respondent no. 1 to release the maintenance amount, after making appropriate deductions from the pay and allowances of the respondent no. 2, to the petitioner with effect from 23.12.2019. The arrears be released to the petitioner in equal monthly instalments over



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a period of 12 months.

12. Needless to say, as we have directed the release of maintenance with effect from 23.12.2019, the date of application of the petitioner, the other consequential terms of the Air Force Order No. 03/2013 shall accordingly apply.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 27, 2024

SU/SK/as

Click here to check corrigendum, if any