



CWP-13712-2025

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(226)

CWP-13712-2025

Date of Decision : March 11, 2026

Hardeep Singh**.. Petitioner****Versus****Union of India and others****.. Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Jasmeet Singh Ghumman, Advocate, for the petitioner.

Mr. Sunil Kumar Sharma, Senior Panel Counsel,
for the respondents-UI.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 13.02.2025 (Annexure P-8) passed by the Armed Forces Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') by which, the penal action taken against the petitioner on the ground that he had solemnized marriage with a married lady while in service, has been upheld.

2. Learned counsel for the petitioner argues that the status of his marriage with Manjeet Kaur was on account of the information given to him that her previous marriage with Sh. Gurwinder Singh is no more in existence and this fact has been ignored so as to take action against the petitioner and it has come on record that the customary divorce was granted to Manjeet Kaur with Gurwinder Singh and such divorce has to be treated as valid, however, this fact has also been ignored by the Tribunal while

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dismissing the claim of the petitioner qua the order passed against him under Section 20 (3) of the Air Force Act, 1950 read with Rule 18 (1) of Air Force Rules, 1969.

3. During the pendency of the present petition, learned counsel for the respondents was requested to find out whether, the custom of divorce before the Panchayat took place qua Manjeet Kaur before she married the petitioner. The enquiry reveals that such action was duly taken by the Panchayat to grant divorce to Manjeet Kaur from her previous husband Gurwinder Singh before she married the petitioner.

4. We have heard learned counsel for the parties and have gone through the record with their able assistance.

5. Once, it has come on record after the due enquiry of the actual facts from the village Panchayat that the customary divorce was granted to Manjeet Kaur before she married the petitioner, it cannot be said that the petitioner was at fault. Once the petitioner was informed with regard to the customary divorce and he believed the same without doubting, action cannot be taken against him.

6. Further, with regard to the complaint made by the earlier husband of Manjeet Kaur, the document of customary divorce has gone unrebutted, which should have been taken into consideration by the authorities especially to appreciate whether, the petitioner knowingly married Manjeet Kaur in violation of the conduct rules or his marriage with Manjeet Kaur was bona fide.

7. Further, as per the judgment of the Hon'ble Supreme Court of India in ***Criminal Appeal No.2905 of 2023 (arising out of SLP (Criminal))***



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No.968 of 2023) titled as Sanjana Kumari vs. Vijay Kumar, decided on 18.09.2023, a Hindu marriage can be validly dissolved through a customary divorce, provided the existence of such a customary right is established. Further, the findings which have been recorded by the Tribunal that the customary divorce was in the year 2012 though the marriage of the petitioner with Manjeet Kaur was solemnized in the year 2011 is factually incorrect. The customary divorce, copy of which has been appended as Annexure P-2, duly carries the signature of Gurwinder Singh i.e. the earlier husband of Manjeet Kaur and all the witnesses of Panchayat, and this document has gone unrebutted. The same is dated 25.07.2011 much before the date when the petitioner solemnized marriage with Manjit Kaur on 21.09.2011.

8. Since, nothing has come on record that the petitioner married an already married lady whose marriage was subsisting, rather, the marriage had already come to an end, which fact has also been verified again during the pendency of the present petition and as per the settled principle of law noticed hereinbefore, such customary divorce has to be treated as valid especially when the existence of such a customary right is established.

9. Keeping in view the totality of the circumstances, the order passed by the respondents-authorities in removing the petitioner from service cannot be upheld being contrary to the facts and law.

10. At this stage, learned counsel for the petitioner submits that in case the order terminating the service of the petitioner is set aside and he is granted reinstatement, he will not claim any monetary benefit of the intervening period except notional fixation of his salary from the date his

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services were terminated till the date of reinstatement.

11. In view of the above, the present writ petition is allowed. The order terminating the services of the petitioner is accordingly set aside. The respondents are directed to reinstate the petitioner forthwith. However, the petitioner shall not be entitled to arrears of salary; he shall be treated to have continued in service from the date of termination till the date of reinstatement with notional fixation of pay up to the date of reinstatement.

12. Let the order be complied with within a period of eight weeks from the date of receipt of copy of this order. In case petitioner is not reinstated in service within the time frame granted, then upon expiry of the time frame granted, petitioner will be entitled for salary from the date of expiry of time period granted to comply with the order till his reinstatement.

(HARSIMRAN SINGH SETHI)
JUDGE

March 11, 2026
harsha

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No