



2025:DHC:1759-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3319/2025, CM APPL. 15724/2025 & CM APPL.
15725/2025

R. JANI W/O SGT SANOJ SANKARPetitioner
Through: Mr. Pradeep Shukla and
Mr. Vikash Prasad, Advs.

versus

UNION OF INDIA AND ORSRespondents
Through: Dr. Vijendra Singh, CGSC with
Mr. Abhinav Rathi, Mr. Rahul Kr. Sharma,
Advs.
Sgt. M. N. Khan and Vikas Kumar for IAF.
Mr. Rahul Kumar Sharma, GP.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% **18.03.2025**

C. HARI SHANKAR, J.

1. This is an unsavory matrimonial dispute, which has donned the colours of a service *lis* palette.

2. The petitioner is the wife of one Sgt. Sanoj Sankar, who is a sergeant in the Indian Air Force. Sgt Sankar is Respondent 6 herein.

3. The petitioner and Sgt. Sanoj Sankar were married on 14 February 2014 according to Hindu rites and ceremonies. The matrimonial relationship between them soured, and it is the



petitioner's allegation that Sgt Sankar also subjected her to physical abuse.

4. The acrimony between the parties resulted in filing of a divorce petition by Sgt Sanoj Sankar, which is pending before the Family Court at Chavara in Kerala.

5. The petitioner has also filed Complaint Case 322/2024 before the learned Judicial First Class Magistrate¹, Sasthamkotta, Kollam, Kerala, alleging that the respondent contracted a second marriage while the marriage with the petitioner was subsisting. The said case is also stated to be pending presently before the learned JFCM. As of now, therefore, the divorce litigation, as well as the criminal case instituted by the petitioner before the learned JFCM, Sasthamkotta, are both pending.

6. The petitioner addressed a communication to the Indian Air Force² levelling the aforesaid allegations² against Sgt Sankar. The IAF has apparently set up a court of enquiry in terms of Rule 154(1)³ of the Air Force Rules to enquire into the allegations levelled by the petitioner against Sgt Sanoj Sankar.

7. Sgt Sanoj Sankar is due to be discharged from the IAF on 31 March 2025. The petitioner has approached this Court seeking a

¹ "the learned JFCM" hereinafter

² "IAF" hereinafter

³ **154. General.** –

(1) A court of inquiry is an assembly of officers or of officers and warrant officers directed to collect evidence and if so required, to report with regard to any matter which may be referred to them.



mandamus to the Air Force not to allow the discharge of Sgt Sonkar from the Air Force. Her contention is that, if, Sgt Sonkar's discharge is allowed, in view of para 578 of the Regulations for Indian Air Force 1964⁴, it would not be possible for the IAF to proceed against Sgt Sanoj Sankar.

8. In our view, the petition is completely misconceived. We have repeatedly queried of Mr. Pradeep Shukla, learned Counsel for the petitioner, as to whether there is any provision in the law by which the discharge of an officer of IAF can be held up merely because, on an allegation made by someone, a court of enquiry has been instituted. Mr. Shukla is unable to show us any such provision.

9. Mr. Shukla, however, places reliance on Regulation 578 (g) and (h) of 1964 Regulations, which we may reproduce thus:

“(g) When a case of plural marriage has been brought before a criminal or civil court, the commanding officer will not initiate, administrative action till after the matter has been finally disposed of by the court. When a person is charged for contracting plural marriage before a criminal court, he will not be claimed for trial by court-martial. Such person will inform his commanding officer immediately a complaint is made against him in a court of law, and the commanding officer will then report the case to Air Headquarters (Directorate of Personal Services) through normal channel.

(h) When a person has been convicted under section 494 or 495 of the Indian Penal Code, or his plural marriage has been dissolved, he will inform his commanding officer of his conviction and punishment or of the dissolution of plural marriage, and the commanding officer will then report the matter to Air Headquarters (Directorate of Personal Services) through normal channel. Thereafter the commanding officer will initiate administrative action to terminate his service under section 19 or 20 of the Air

⁴ “the Air Force Regulations” hereinafter



Force Act.”

10. He also cites para 148 of Air Force Order 3/2008, which reads thus:

“DISPOSAL OF DISCIPLINARY/ADMINISTRATIVE CASES AGAINST AIR FORCE PERSONNEL PROCEEDING ON RETIREMENT/ RELEASE /DISCHARGE ETC.”

148. There may be cases where AF personnel are involved in disciplinary/administrative cases at the time of or after their retirement/release/discharge orders have been issued by Air HQ/AFRO. In such cases, if the CO or any other superior AF authority considers it necessary, a case is to be immediately taken up with Air HQ/AFRO to modify/cancel/hold-in-abeyance the retirement/release/discharge orders issued in respect of the officer/airman/NC(E). Appropriate orders are to be passed on these requests after taking advice of the JAG (Air)/CJA, as applicable.”

11. Having perused the said provisions and heard Mr. Shukla, we do not find that the prayer in the petition can be supported by any of these provisions.

12. Regulation 578(g) interdicts the commanding officer from initiating administrative action in respect of an allegation of plural marriage contracted by an officer of the IAF, where the case has been brought before a civil or a criminal court, till the court finally disposes of the matter. It also proscribes subjecting the officer to a court martial if he is charged for contracting plural marriage before a criminal court. The provision cannot, therefore, in any manner of speaking, be treated as justifying injuncting the discharge of an officer merely because, on the allegation of bigamy levelled by his wife, the IAF has set up a court of enquiry.



13. Regulation 578(h) applies where a person is convicted under Section 494 or 495 of the India Penal Code, 1860 or his plural marriage has been dissolved. Neither of these circumstances obtains in the present case. Accordingly, this sub-regulation is also not applicable.

14. Clause 148 of the Air Force Order 3/2008 applies to cases where an Air Force Personnel is involved in a disciplinary and administrative case at the time of his discharge. No disciplinary or administrative case is pending against the respondent.

15. Mr. Shukla attempted to submit that the respondent must be treated as facing a disciplinary enquiry as a court of enquiry stands instituted. It is axiomatic that a court of enquiry does not amount to institution of disciplinary action against an officer. A court of enquiry is merely fact finding.⁵ One does not know what would happen after the court of enquiry arrives at its finding.

16. There is every possibility that a court of enquiry may come to a finding that there is no substance in the allegation of the petitioner. One cannot predict that the outcome of court of enquiry would be favorable to the petitioner.

17. As we said at the commencement of this order, this is a matrimonial dispute which has been accorded the colour of a service

⁵ Refer **Major General Inder Jit Kumar v UOI, (1997) 9 SCC 1**



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litigation. We would have been inclined to award costs in this matter; however, as we are dismissing this petition in *limine*, we refrain from doing so.

18. The petition is accordingly dismissed.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

MARCH 18, 2025/sk

Click here to check corrigendum, if any