

ARMED FORCES TRIBUNAL, REGIONAL BENCH, CHENNAI

O.A. No.120 of 2014

Wednesday, the 26th day of November 2014

THE HONOURABLE JUSTICE V. PERIYA KARUPPIAH
(MEMBER - JUDICIAL)

AND

THE HONOURABLE LT GEN K. SURENDRA NATH
(MEMBER – ADMINISTRATIVE)

V. Gothari Murugan
S.No.14268404-F, Rank: Ex Nk
4A, 4th Street, Kalidas Nagar
Tenkasi-Village & Post
Tirunelveli District
Pin Code: 627 811
Tamil Nadu.

... Applicant

By Legal Practitioners:
T. Sundaranathan,
Zulfiqar Ali Khan
& S. Uthama Sankarappan

vs.

1. The Chief Records Officer
The Records Signals
Pin-908770
C/o 56 APO.

2. The Assistant Director
Department of Ex-Servicemen's Welfare
Tirunelveli (TN)-627 002.

3. G. Jhansi Rani
D.No.26/1A, Kennady Street
Keelapavoor-Village
Alangulak-Taluk
Tirunelveli District
Tamil Nadu.

4. Principal Controller of Defence
Accounts, Allahabad.

5. Union of India
Rep. by Secretary MOD
New Delhi.

6. Chief of Army Staff
Integrated HQS, South Block
New Delhi-110 010.

... Respondents

By Mr. N. Ramesh, ACGSC
For Respondents-1, 2, 4 to 6.
No rep. for R.3

ORDER

(Order of the Tribunal made by
Hon'ble Justice V. Periya Karuppiyah, Member (Judicial))

1. This application is filed by the applicant for a direction to 1st respondent to delete the name of "G. Jhansi Rani" and enter the name of "Kathiraesan Jayanthi" as the name of wife of applicant and publish Part-II Order in respect of Service Records of the applicant.

2. The factual matrix of the case of the applicant is as follows:
The applicant enrolled in the Corps of Signals in Indian Army on 25.09.1985. After serving for 22 years, he was discharged on 25.10.2007 on medical grounds under Army Rules 13(3) under Medical Category of S5H1A1P2E1. During service, he married one Jhansi Rani, daughter of Late Pattaiah on 7.11.1994. She was also called by her name Gomathi. After the marriage, she was known as G.Jhansi

Rani meaning of which that she was the wife of Gothari Murugan, the applicant. In the Part-II Order also it was mentioned as G.Jhansi Rani. Thereafter due to a rift between them, their marriage was dissolved by the Principal Subordinate Court, Tenkasi by an order dated 19.8.2010 made in H.M.O.P.No.40 of 2008. In the said order, name of the applicant's wife was mentioned as Gomathi @ Jhansi Rani. No appeal was preferred against the said order. Thereafter, the applicant married one Jayanthi, daughter of one Kathiresan on 21.3.2011 and it was duly registered in the office of Marriage Registrar, Sub-Registrar Office, Senkottah. The applicant submitted an application for making necessary entries in Part II Order relating to his second wife Jayanthi. But the respondents refused to make such entries for the reason that the name of the applicant's first wife differed from the service records and he was advised to resubmit the application through 2nd respondent after rectification. The applicant submits that the names of his first wife Gomathy and Jhansi Rani are one and the same. Even after such submissions of the applicant, the respondents kept on returning the request of the applicant. Hence, the applicant having no other alternative and effective remedy approached this Tribunal seeking the relief as prayed for.

3. The respondents filed a counter which would be as follows: All the facts regarding request of the applicant to make necessary entries

in Part-II Order and the refusal of the respondents are not denied by the respondents. The respondents submit that the applicant instead of submitting the application duly rectifying the observation made by them had submitted an affidavit notarized by the Public Notary to the effect that Gomathi and Jhansi Rani is one and the same which is not valid and did not serve the purpose. The applicant though advised, he did not get the rectification in the decretal order of divorce. Therefore, the applicant may be directed to submit an affidavit from a First Class Magistrate and send it to Signals Records.

4. On the above pleadings, the following points emerged for consideration:

1. Whether the first respondent is to be directed to delete the name of G.Jhansi Rani and enter the name of Kathiraesan Jayanthi as the name of wife of the applicant and publish Part-II Order in the Service Records of the applicant as prayed for ?

2. What would be the relief, the applicant is entitled to ?

5. We heard the submissions of Mr.T. Sundaranathan, learned counsel for the applicant and Ms. A. Roja, learned counsel appearing for Mr. N. Ramesh, learned ACGSC assisted by Major Suchithra Chellappan, learned JAG Officer appearing for respondents -1,2,4 to 6.

6. **Point Nos.1 and 2:** The case of the applicant that he was enrolled on 25.10.1995 in Indian Army and was discharged from

service on 25.10.2007 on medical grounds and the name of the applicant's wife, viz., G.Jhansi Rani, daughter of Mr. Pattaiah was entered in Part-II Order of the service record of the applicant are not disputed. The applicant has now claimed that his wife filed divorce application under section 13(1)(a) of Hindu Marriage Act on the file of Principal Sub-Court, Tenkasi in H.M.O.P. No.40 of 2008 and the said application was allowed on 19.08.2010 dissolving the marriage in between them. The applicant subsequently married one Jayanthi, daughter of Mr. Kathiraesan of Senkottah on 21.03.2011 and the same was registered before Marriage Registrar, Sub-Registrar Office, Senkottah and therefore, he wanted the deletion of the name of his first wife G.Jhansi Rani and to include name of the second wife Kathiraesan Jayanthi in Part-II order and to make publication of the same. However, the said claim of the applicant was not accepted by the respondents since the divorce decree in H.M.O.P.No.40 of 2008 produced by the applicant shows the name of first wife of the applicant as Gomathi alias Jhansi Rani and therefore the name of the applicant's first wife differs with the name recorded in Part-II order of the applicant's service record. The applicant has impleaded his first wife as 3rd respondent and she did not appear before us despite notice has been served against her.

7. The respondents have submitted in their reply-statement that Part-II order has been amended as per the request of the applicant and accordingly his first wife's name was deleted and the re-marriage was published in the Signals Records Part-II Order dated 19.09.2014 subject to the provision of an affidavit sworn in before the First Class Magistrate stating that the lady with name Gomathi @ Jhansi Rani as mentioned in the decree of divorce is one and the same with G.Jhansi Rani as recorded in the service records. Therefore, we find that the claim of the applicant has been conceded subject to the provision of filing an affidavit by the applicant as stated in the reply-statement and also in Annexure R.11 produced by the respondents. The learned counsel for the applicant would submit that the applicant did not receive such a communication as in Annexure-R.11 and he would submit an affidavit as required within such time as provided by this Tribunal.

8. Considering the present circumstances of the case and the submission made by the learned counsel for the applicant, we feel that the claim of the applicant shall be allowed subject to the condition as stipulated in Annexure R.11. However, time limit given in R.11 expires by 29.11.2014. We feel the time limit given to the applicant is not sufficient and additional period of one month time if granted will be convenient for both to comply with such a direction. Accordingly,

the applicant is granted time for production of the affidavit as contemplated in Annexure R.11 within a period of one month from the date of receipt of copy of this order.

9. In the result, the application is allowed with the condition as stipulated in Annexure R.11. Time for production of affidavit as contemplated in Annexure R.11 is one month from the date of receipt of copy of this order. No order as to costs.

Sd/
LT GEN K. SURENDRA NATH
MEMBER (ADMINISTRATIVE)

Sd/
JUSTICE V.PERIYA KARUPPIAH
MEMBER (JUDICIAL)

26.11.2014
(True copy)

Member (J) – Index : Yes/No
Member (A) – Index : Yes/No

Internet : Yes/No
Internet : Yes/No

VS

To:

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7. T. Sundaranathan,
Zulfiqar Ali Khan
& S. Uthama Sankarappan
For applicant.

8. Mr. N. Ramesh, ACGSC
For Respondents-1, 2, 4 to 6.

9. OIC, Legal Cell, ATNK & K Area, Chennai.

10. Library, AFT, Chennai.

HON'BLE MR.JUSTICE V. PERIYA KARUPPIAH
MEMBER (JUDICIAL)
AND
HON'BLE LT GEN K. SURENDRA NATH
MEMBER (ADMINISTRATIVE)

O.A. 120 of 2014

Dt: 26.11.2014