

S2.1

ARMED FORCES TRIBUNAL
REGIONAL BENCH
KOLKATA

O. A. No.146/2016

WITH

M.A. Nos. 63, 64 AND 38/2017

ALONGWITH O.A. No. 10/2014

Smt. Khurshida Bibi Applicant
VERSUS
Union of India And Ors. Respondents

For Applicant : Mr. Aniruddha Datta, Advocate
For Respondents : Mr. Ajay Chaubey, Advocate for
RR 1-6
: Mr. S.K. Choudhury, Advocate
for R-7

Dated: 06th May, 2022

CORAM :

HON'BLE MS. JUSTICE ANJANA MISHRA, MEMBER (J)
HON'BLE LT GEN BOBBY CHERIAN MATHEWS, MEMBER (A)

ORDER

M.A. No. 63, 64 AND 38/2017

The aforesaid MAs are being taken up together as they relate to the issuance of relationship certificate, dependent card and canteen card facilities to the applicant.

2. An application MA 38/2017 in OA 146/2016 was filed by the applicant on 22nd March, 2017, inter alia, praying for the following reliefs:

"Under the above facts and circumstances it is prayed that your Lordship may be graciously pleased to pass necessary order for granting Relationship Certificate, Dependent Card and Canteen Card at the earliest and/or pass such order as your Lordship may deem fit and proper.

3. The Tribunal, assuming the subsistence of the marriage between the parties, passed certain orders in MA 38/2017 on 30th March, 2017 and 3rd May, 2017; relevant portion of which reads as under:

“ 30th March, 2017

13. That being the position and since the applicant has not been granted any maintenance so far, who has a college going boy and stated to have no other source of income, we are of the considered opinion that an ad-interim order is required to be passed so that the applicant may avail the CSD canteen facilities and also the Medical facilities, if occasion so arises, till the next date fixed. Hence, the respondent authorities are directed, as an ad-interim measure, to issue the dependant card in the name of the applicant for availing CSD canteen facilities and Medical facilities in the Army hospital. The said cards shall be issued by the Station Headquarter, Kolkata.”

03rd May, 2017

“7. Having heard to the aforesaid submission advanced and considering the facts and circumstances of the present case apart from the fact that the applicant has no source of income, we direct respondents No.1 to 6 to deduct ten thousand rupees (Rs.10,000/-) from the salary of the respondent No.07 and to deposit the same to the Registry of this Tribunal towards litigation expenses of the applicant. On being deposited, the said amount shall be released to the applicant on being identified by the learned counsel for the applicant.

8. Mr. Basu, learned counsel for the applicant further submits that the CSD canteen facility apart from medical facility has not been extended to the applicant and her son till date, pursuant to the order of this Tribunal dated 30.03.2017 passed in MA No.38/2017. Learned counsel for respondents No. 1 to 6, however, submitted that medical facility as and when required would definitely be extended to the applicant and her son. He further submitted that so far neither the applicant nor her son reported for medical assistance. Relating to the extension of canteen facility, learned counsel for respondent No. 1 to 6, submitted that such canteen facility for grocery would be made available in Bengal Tiger Canteen, A.J.C. Bose Road, Kolkata.

9. Having regard to the aforesaid position, we direct the respondents No.1 to 6 to make available the canteen facility for grocery to the applicant and her son in Bengal Tiger Canteen. Respondents shall also extend medical facility in the Command Hospital, Eastern Command, Kolkata as and when request for such medical assistance is made by the applicant and her son.

10. Mr. Basu, learned counsel for the applicant further submits that since the Relationship Certificate in respect of the applicant's husband and son, Mohnish Alam, has not been issued by the respondents, he has not been able to apply for a job in the unit concerned against the quota. Considering the

circumstances and in the interest of justice respondents may be directed to issue Relationship Certificate.”

4. Thereafter, on 19th May, 2017 the respondents filed two applications; one MA 63/ 2017 for recalling of the aforesaid orders and the other being MA 64/2017 for condoning the delay in filing MA 63/2017. It is these two applications which now require consideration.

5. For the reasons mentioned in MA 64/2017, we condone the delay in filing MA 63/2017. MA 64/2017 thus stands disposed of.

6. We may also take note of the order passed through Video Conferencing on 24th February, 2021 by a Bench comprising Hon’ble Chairperson and Hon’ble Vice Admiral P. Murugesan, Member (A), which disposes of all the issues by noting that the appropriate remedy for the applicant in OA would be *“to get the order passed by the Magistrate executed and not to invoke the jurisdiction of this Tribunal”* and in view thereof, we deem it fit and appropriate to allow the prayer made in MA 63/2017 and recall the orders dated 30th March, 2017 and 3rd May, 2017. Ordered accordingly. Consequently MA 63/2017 stands allowed and MA 38/2017 thus stands dismissed.

OA 146/2016

7. Heard learned counsel on both sides. We are informed at the Bar that after filing of this OA the applicant had moved

the Court of Magistrate for grant of maintenance. Learned counsel for the respondents has also brought on record the necessary document (Annexure R-24) which finally indicate at para 'N' of the counter affidavit as under::

“(N) The casualty regarding ‘Divorce’ has been re-published vide Military Hospital, Bareilly vide their Part II Order No.O.0231/0002/2016 dated 8th December, 2016 which was received by Army Medical Corps Record Office alongwith requisite documents and accepted as technically correct. The copy of the said order dated 08/12/2016 is annexed herewith as Annexure R-24.”

8. The factum of marriage having been dissolved by a decree of divorce and having been accepted as technically correct, vide orders dated 8th December, 2016 (Annexure R-24) being before us, we find that the applicant is no longer entitled to the maintenance as claimed for in this OA.

9. We also find that pursuant to the dismissal of earlier OA bearing No.10/2014 filed before the Tribunal vide order dated 13th March, 2014, stating *‘let the matter be dismissed as not pressed with liberty to the applicant to approach before the appropriate judicial forum, if so advised’* (Annexure R-9), the applicant had also approached the Court of Magistrate which has passed the order for grant of maintenance under the appropriate provisions of law. If at all, the applicant wishes to get the order implemented, the appropriate remedy available to her would not be before this Tribunal but before the

appropriate authority for which she must take appropriate steps, if so advised.

10. In view of the aforesaid, we find no merit in this OA and the same is dismissed with no order as to costs.

11. OA No.10/2014 having been already dismissed as not pressed vide orders dated 13th March, 2014 and the applicant having been granted relief in parallel proceedings, no further orders are required on this OA.

Pronounced in open Court on this 06th day of May, 2022.

(ANJANA MISHRA)
MEMBER (J)

(BOBBY CHERIAN MATHEWS)
MEMBER (A)

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