

stated by learned counsel appearing for the respondent No.4 that the respondents are examining the records and an endeavour would be made to take a final decision in the matter pertaining to the same. The aforesaid statement is recorded.

26. Accordingly, the writ petition is **allowed**. The order impugned dated 16.05.2024, a copy of which is annexure 1 to the petition, and the order dated 30.03.2024, a copy of which is annexure 2 to the petition, are **quashed**. The respondents No.1 to 3 are directed to pay the entire amount of gratuity due to the petitioner within a period of eight weeks from the date of receipt of certified copy of this order along with admissible interest.

27. The respondent No.4 shall also take a final decision pertaining to the payment of EDLI as due to the petitioner within the aforesaid period of time.

(2025) 1 ILRA 782

**ORIGINAL JURISDICTION
CIVIL SIDE**

DATED: LUCKNOW 06.01.2025

BEFORE

**THE HON'BLE ATTAU RAHMAN MASOODI, J.
THE HON'BLE SUBHASH VIDYARTHI, J.**

Writ -A No. 12422 of 2024

**Union of India & Ors. ...Petitioners
Versus
Central Administrative Tribunal Lko. &
Anr. ...Respondents**

Counsel for the Petitioners:
Ajit Kumar Dwivedi

Counsel for the Respondents:
Praveen Kumar

**A. Service Law – Disciplinary Enquiry –
Sexual Harassment – Conspiracy – CCS**

(CCA) Rules, 1965 - Rule 11(i), 29 - The action (revisional power) could not have been set aside merely for want of the order having been passed by an authority other than the President. Petitioners have submitted that a bare perusal of the Rule 29 indicates that besides the President, the Head of Department and the appellate authority are also empowered to exercise the revisional power under the Rule. In the present case, the fresh action has been instituted by an order passed by the appellate authority. (Para 12)

B. None of the allegations levelled in the complaint make out a case "sexual harassment" as defined in the guidelines issued by the Government of India. (Para 18)

C. The complainant has already written to the Additional Director, G.S.I. stating that the dispute between her and the opposite party no. 2 stands settled. In these circumstances, **before directing any action to be taken against the opposite party no. 2, the authorities ought to have satisfied themselves whether any *prima facie* case of commission of sexual harassment by the opposite party no. 2 was made out.** The authorities have not recorded any satisfaction before instituting proceeding afresh against the opposite party no. 2. After examination of record, it can be concluded that no case for instituting any fresh proceeding on the allegation of sexual harassment is made out against the opposite party no. 2. (Para 19)

D.(i) The opposite party no. 2 has sent a complaint dated 07.05.2023 to the Director General, GSI against two officers, reproducing a transcript of a conversation showing that they had instigated the complainant to file a false complaint against the opposite party no. 2 and in response to this suggestion the complainant had stated that the opposite party no. 2 had not said anything to her. **The opposite party no. 2 has requested the Director General to take action against the aforesaid two officers but it appears that no action has been taken against those two officers.** (Para 20)

(ii) The Internal Complaints Committee had found opposite party no. 2 as well as the complainant guilty of aggravating their personal issues to the extent that the whole office suffered and the committee had recommended appropriate action to be taken against both but action has been taken against opposite party no. 2 only and no action has been taken against the complainant in spite of the recommendation of the internal complainants committee. It prima facie indicates that **the authorities have acted vindictively against the opposite party no. 2 while shielding the other erring persons.** (Para 20)

In these circumstances, no fresh proceedings can be drawn against the opposite party no. 2 on the ground that he has committed an act of sexual harassment against the complainant. (Para 21)

E. Jurisdiction - Although it is a general principle of law that the validity of an order is to be examined on the basis of the reasons mentioned in the order. It is equally well settled that even if an order suffers from some illegality, the High Court will not exercise its jurisdiction to quash the same if it would result in restoration of another illegality or if it would propagate an injustice. The High Court being a court record as mentioned in Article 215 of the Constitution of India, has all powers inherent in such a court so as to secure the ends of justice. Interfering in the impugned order passed by the tribunal for on the ground that the reason assigned by the Tribunal for setting aside the order is incorrect, would result in initiation of fresh disciplinary proceedings against the opposite party no. 2, which is not warranted for the reasons mentioned in this order and which would not be in the interest of justice. (Para 22)

Writ petition dismissed. (E-4)

Present petition seeks quashing of the judgment and order dated 08.05.2024, passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow allowing Original Application No.

332/00365 of 2023 filed by the opposite party no. 2.

(Delivered by Hon'ble Attau Rahman Masoodi J. & Hon'ble Subhash Vidyarthi J.)

1. Heard Sri Ajit Kumar Dwivedi, the learned counsel for the petitioners-Union of India and its Officers and Sri Praveen Kumar the learned counsel for the opposite parties.

2. By means of this writ petition filed under Article 226 of the Constitution of India, the petitioners have sought quashing of the judgment and order dated 08.05.2024 passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow allowing Original Application No. 332/00365 of 2023 filed by the opposite party no. 2 - Akash Goyal.

3. Briefly stated, facts of the case are that while the opposite party no. 2 was working as an Assistant in the office of the Geological Survey of India, Western Region, Jaipur, a lady co-worker filed a complaint against him. The complaint was referred to the Internal Complaints Committee, which held a detailed enquiry and submitted a report dated 21.11.2022. The Director (G) & HOD and Disciplinary Authority, G.S.I., Western Region, Jaipur issued an Office Memorandum dated 14.02.2023 stating that a disciplinary action was proposed against the opposite party no. 2 under Rule 16 of CCS (CCA) Rules, 1965. The statement of the imputation of misconduct was enclosed with the memorandum and the opposite party no. 2 was given an opportunity to make a representation against the proposal. The statement of the imputations of misconduct levelled the following two charges :-

ARTICLE-1

That the said Sh Akash Goyal, Assistant, Geological Survey of India, Western Region, Jaipur has breached the modesty of a woman in work place, as reported by the lady official in her written complaint on dated 23rd May 2027, during the proceedings of Internal Complaints Committee Meeting it is observed that the right to life with dignity and her right to secrecy of the complainant was breached by sharing her very personal data like whats app chat content and pregnancy report with others without her consent affecting the modesty of a woman by Sh. Akash Goyal, Assistant, GSI, WR, Jaipur.

Therefore, Sh Akash Goyal, Assistant, Geological Surety of India, Western Region, Jaipur indulged himself in gross misconduct, dereliction of duty in a manner unbecoming of a Government Servant in contravention of Rule 3(1)(ii) & (iii) and 3-C(1) of CCS(Conduct) Rules, 1964.

ARTICLE-II

That the said Sh Akash Goyal, Assistant, Geological Survey of India, Western Region, Jaipur during the proceedings of Internal Complaints Committee Meeting it is also observed that the natter was initiated from personal Issue and aggravated so much that the whole office suffered.

Therefore, Sh Akash Goyal, Assistant, Geological Survey of India, Western Region, Jaipur has failed to maintain devotion to duty and acted in a manner of unbecoming of Government

Servant in contravention of Rule 3(1) (ii) & (iii) of CCS(Conduct) Rule, 1964.

4. The opposite party no. 2 submitted his representation against the aforesaid memorandum on 15.02.2023 inter alia stating that the matter under consideration was personal in nature and it did not concern the office, as was clearly intimated to the office vide letter dated 01.04.2022 jointly signed by the opposite party no. 2 and the complainant. A copy of the letter dated 01.04.2022 jointly written by the opposite party no. 2 and the complainant was annexed with the reply. The opposite party no. 2 further stated in his reply that the allegations do not make out a case of sexual harassment. It was also stated in the reply that the opposite party no. 2 had already submitted a comprehensive representation dated 20.12.2022 stating that the complainant had exaggerated the matter and concocted the story to defame the opposite party no. 2 but the matter was resolved subsequently.

5. The opposite party no. 2 stated that his performance of duties was evident from the letters of appreciation issued on 15.06.2022 and 20.09.2022, copies whereof were enclosed with the reply. The opposite party no. 2 had been transferred from Jaipur to Lucknow and the complainant had been transferred from Jaipur to New Delhi. In these circumstances, no further action was warranted in the matter.

6. After taking into consideration the entire material, the Director(G) & HOD and Disciplinary Authority passed an order dated 28.02.2023 imposing a punishment of censure entry against the opposite party no. 2 in terms of the Sub-rule (i) of Rule 11 of CCS(CCA) Rules, 1965.

7. On 12.05.2023 the opposite party no. 2 lodged a First Information Report No. 0326 under Sections 384, 211, 120B I.P.C. in Police Station Jawahar Circle, District Jaipur City (East) against (i) Raj Kumar Chauhan, Deputy Director (Personal & Administration) GSI, Director General Camp Office, New Delhi and (ii) Ashok Kumar Singh, Assistant Director (Personal and Administration) GSI, New Delhi stating that the opposite party no. 2 had developed friendly relations with the complainant who was working as a Junior Clerk in the office. Their marriage got settled and Roka ceremony was performed on 25.10.2021. However, their marriage could not be solemnized but still, the opposite party no. 2 and the complainant continued to be good friends. The complainant wanted to get herself transferred to New Delhi and she had talked to the aforesaid two accused officers in this regard. They misled the complainant and persuaded her to file a false complaint against opposite party no. 2.

8. The opposite party no. 2 had submitted some conversations between the complainant and the accused officers recorded in a Pen-drive as the evidence in support of the allegations. A transcript of the conversations is a part of a complaint dated 07.05.2023 sent by opposite party no. 2 to the Director General, GSI, showing that Sri. Raj Kumar Chauhan, Deputy Director (Personal & Administration) GSI had instigated the complainant to file a false complaint against the opposite party no. 2 alleging that he was harassing and blackmailing her and in response to this suggestion the complainant had stated that the opposite party no. 2 had not said anything to her.

9. On 07.07.2023, the opposite party no. 2 submitted a representation to

the Director General, GSI praying for cancellation of the punishment order dated 28.02.2023. However, the record reveals that the Additional Director General & HOD and the appellate authority had already issued a direction on 20.06.2023 stating that the penalty of censure was imposed on the opposite party no. 2 without following due procedures as laid down vide DOPT O.M. dated 16.07.2015 and, therefore, the order dated 28.02.2023 was withdrawn so that further action can be initiated against the opposite party no. 2 in accordance with the O.M. dated 16.07.2015. A fresh charge-sheet dated 29.08.2023 containing the same two charges that had been levelled earlier, was issued to the opposite party no. 2 and the memorandum stated that an inquiry would be held under Rule 14 CCS(CCA) Rules, 1965. The opposite party no. 2 challenged the aforesaid orders before the Central Administrative Tribunal by filing Original Application No. 332/00365 of 2023, which has been allowed by the impugned order.

10. The Central Administrative Tribunal referred to the provisions contained in Rule 29 of the CCS (CCA) Rules, 1965, which provides as follows: -

***“PART VIII-REVISION
AND REVIEW***

29. Revision

(1) Notwithstanding anything contained in these rules-

(i) the President; or

(ii) the Comptroller and Auditor-General, in the case of a Government servant serving in the Indian Audit and Accounts Department; or

(iii) the Member (Personnel) Postal Services Board in the case of a Government

servant serving in or under the Postal Services Board and Adviser (Human Resources Development), Department of Telecommunications in the case of a Government servant serving in or under the Telecommunications Board; or

(iv) the Head of a Department directly under the Central Government, in the case of a Government servant serving in a department or office (not being the Secretariat or the Posts and Telegraphs Board), under the control of such Head of a Department; or

(v) the appellate authority, within six months of the date of the order proposed to be revised or

(vi) any other authority specified in this behalf by the President by a general or special order; and within such time as may be prescribed in such general or special order;

may at any time, either on his or its own motion or otherwise call for the records of any inquiry and revise any order made under these rules or under the rules repealed by rule 34 from which an appeal is allowed, but from which no appeal has been preferred or from which no appeal is allowed, after consultation with the Commission where such consultation is necessary, and may-

(a) confirm, modify or set aside the order; or

(b) confirm, reduce, enhance or set aside the penalty imposed by the order; or impose any penalty where no penalty has been imposed; or

(c) remit the case to the authority which made the order to or any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or

(d) pass such other orders as it may deem fit:

Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of rule 11 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, and if an inquiry under rule 14 has not already been held in the case no such penalty shall be imposed except after an inquiry in the manner laid down in rule 14 subject to the provisions of rule 19, and except after consultation with the Commission where such consultation is necessary and Government Servant has been given an opportunity of representing against the advice of the Commission within the time limit specified in clause (b) of sub-rule (3) of rule 15,

Provided further that no power of revision shall be exercised by the Comptroller and Auditor-General, Member (Personnel), Postal Services Board, Adviser (Human Resources Department), Department of Telecommunications

or the Head of Department, as the case may be, unless-

(i) the authority which made the order in appeal, or

(ii) the authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him.

(2) No proceeding for revision shall be commenced until after-

(i) the expiry of the period of limitation for an appeal, or

(ii) the disposal of the appeal, where any such appeal has been preferred.

(3) An application for revision shall be dealt with in the same manner as if it were an appeal under these rules. “

11. The Central Administrative Tribunal held that no order of the President had been produced by the authorities and in absence of the President's order, action of the revising authority, the appellate authority and the disciplinary authority based on observations of Ministry of Mines in withdrawing the penalty imposed and issuing a fresh memorandum of charges, are non-est.

12. The learned counsel for the petitioners has submitted that a bare perusal of the Rule 29 quoted above indicates that besides the President, the Head of Department and the appellate authority are also empowered to exercise the revisional power under the Rule. In the present case, the fresh action has been instituted by an order passed by the appellate authority and, therefore, the action could not have been set aside merely for want of the order having been passed by an authority other than the President. We agree with this

submission and the sole reason assigned by the Central Administrative Tribunal for passing the impugned order is not sustainable in the eyes of law.

13. However, we have gone through the documents brought on record with the Writ Petition, including the complaint made against opposite party no. 2 and the report submitted by the Internal Complaints Committee. The complainant is being reproduced below: -

“Geological Survey of India

WR, Jaipur

Kind attention I HoD WR, Jaipur

Subject :- Complaint against a person

Respected Sir,

I am writing this letter to inform you about the inappropriate behavior of a person in Geological Survey of India, WR, Jaipur. As the number from which I am facing harassment and defamation is 9468623803 which is from true-caller coming the name of Kushal Singh Hada (assistant APAR CELL) in the Geological Survey of India, WR, Jaipur.

I have attached some screenshots of the above contained and I sincerely hope that you will take the necessary action for his immediate cause and also I am looking forward to a positive response from your side as easily as possible.

Thanking you

Copy for information to

Internal Complaint

Committee Chairperson GSI, WR, Jaipur

Yours Sincerely

** * **

LDC”

14. The observations of the committee include the following observations;-

iii Both of them have the habit of recording the phone calls as well as one to one conversation which were later on submitted to the committee.

*vii The complainant Ms * * * had also misled the committee regarding the nature of relationship she was having with Shri Akash Goyal, on first occasion she denied, later on admitted that they were staying together. She also misled the committee regarding her place of stay while availing leave recommended by the IC. Moreover while checking the entry register at the gate of the GSI Colony to verify the entry of Akash Goyal, IC found that the copy received from the in-charge of the GSI Colony is very different from the copy submitted to the Office by Ms * * *. She also lied before the committee regarding her relationship with Ms. * * *, her room partner.*

viii She exaggerated many things related to the threatening and her safety and security as for example she got some anonymous phone calls for which she blamed the respondents without any proof. The committee made an effort to verify by calling those numbers, but got no response. The IC asked both of them on many occasions about the last interaction they had with

*each other, to which Akash Goyal informed the IC that the telephonic conversation with a conference call with her brother-in-law on 16.04.2022 was the last conversation he had with * * *, after which he had not interacted with her in the presence of * * *. Hence it seems that the allegations by Ms. * * * vide letter dated 23.05.2022 against Shri Akash Goyal that he called her and stalked her is false.*

xii She has put her signature on some of the statements and denied to sign the others. The committee allowed her to go through the statements repeatedly and counselled her, but she was not satisfied and refused to sign citing the reason that the statements should be in more detail as it would go to the court. She also told the committee to elaborate more on some incidences.

*xiii Ms. * * * has maligned the image of the Office by bringing the police to the Office in connection with the theft of her mobile phone without prior permission of the Office. Due to police complaints, most of the witnesses were scared, did not want to share any information.*

*xiv All the colleagues called to the proceedings as witnesses told that both * * * and Akash used to meet with each other in their respective Sections during the Lunch hours and used to have normal discussions and they have not noticed them quarreling or talking rudely. Shri Arun Yadav, LDC, Party bill Section informed the IC that * * * was very disturbed*

and stressed during the month of March, 2022 as noticed from the facial expression while talking over phone.

xv It seems that the matter was also aggravated due to some lapses in administrative actions. Had the Office administration acted upon the initial complaints based on the CCS Conduct Rules, the matter could have been sorted out early. After so many complaints sitting arrangement of both the complainant and the respondent could have been done in separate buildings or wings.

*xvii Action should have been taken against Ms. * * * under CCS Conduct rules for bringing Police to the Office, thereby Maligning the image of the.(Sic.) Despite the written complaint by the Security Officer regarding this, no action has been taken except the verbal warning.*

*xviii The committee everything (Sic.) that everything started from their personal issue. In due course of time their relationship worsened to such an extent that, the matter led to involve the Office and thereby wasting the valuable time of the Office and affecting the work hour productivity. Post termination of Roka and the relationship between Ms * * *, LDC and Shri Akash Goyal, Assistant it seems that there was blame game, allegations and counter allegation with maligned intention to take revenge on one another and defame the other. They also involved the Office in this matter unnecessarily, despite a letter submitted to the Office by*

*both of them dated 1st April, 2022 admitting that it was their personal matter and will not involve the office further. The act of Shri Akash Gyal, Assistant with a malign intention to defame Ms. * * * LDC by sharing her personal content and sensitive pregnancy report with others is an attempt to breach the modest of a woman.*

15. The Internal Complaints Committee had made the following recommendations :-

i The matter was initiated from personal issue and aggravated so much that the whole office suffered for which appropriate action may be taken on both the respondent and complainant as per the CCS, conduct rules.

ii The right to life with dignity and her right to secrecy of the complainant was breached by the respondent by sharing her very personal data like whats app chat content, pregnancy report with others without her consent affecting the modesty of a woman. Hence appropriate action as per CCS, conduct rules may be initiated against the respondent Shri Akash Goyal, for his act of harassing a woman and unbecoming of a government Servant.

*iii. Even though the complaint, Ms. * * * has been transferred out of GSI, Jaipur to DGCO, New Delhi, the committee also recommends the transfer out of Shri Akash Goyal, as he disturbed the Office environment through sharing information of a woman*

using the phone of other colleague without their consent and also tried to influence the committee through higher officials and leaked confidential content of proceedings to other Officials.

*iv. Ms. * * * has signed some of the statements and refused to sign the other despite all attempts made by the committee to attend her concerns, for which she needs to be counselled.*

16. The complainant had submitted an application dated 01.04.2022 jointly with the opposite party no. 2, to the Director (G) & Head of Office GSI, Western Region, Jaipur stating that the matter between them had been sorted out.

17. The record further reveals that the complainant was transferred to New Delhi as per her own wish and no action was taken against her in spite of the recommendations of the Internal Complaints Committee.

18. The Government of India has issued guidelines for dealing with the complaints of sexual harassment. The relevant passage from the guideline which deals “sexual harassment” provides as follows :-

What is Sexual Harassment?

2. “sexual harassment” includes any one or more of the following acts or behavior (whether directly or by implication), namely:—

(i) physical contact and advances; or

(ii) demand or request for sexual favours; or

(iii) sexually coloured remarks; or

(iv) showing any pornography; or

(v) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.

3. The following circumstances, among other circumstances, in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:

-

• (i) implied or explicit promise of preferential treatment in employment; or

• (ii) implied or explicit threat of detrimental treatment in employment ; or

• (iii) implied or explicit threat about her present or future employment status; or

• (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or

• (v) humiliating treatment likely to affect her health or safety.

A bare perusal of the complaint indicates that none of the allegations levelled in the complaint make out a case “sexual harassment” as defined in the guidelines issued by the Government of India.

19. The complainant has already written to the Additional Director, G.S.I. stating that the dispute between her and the opposite party no. 2 stands settled. In these circumstances, before directing any action to be taken against the opposite party no. 2, the authorities ought to have satisfied themselves whether any prima facie case of

commission of sexual harassment by the opposite party no. 2 was made out. The authorities have not recorded any satisfaction before instituting proceeding afresh against the opposite party no. 2. Upon examining the record, we have come to a conclusion that no case for instituting any fresh proceeding on the allegation of sexual harassment is made out against the opposite party no. 2.

20. The opposite party no. 2 has filed F.I.R. No. 0326 under Sections 384, 211, 120B I.P.C., Police Station Jawahar Circle, District Jaipur City (East) against two higher officers of the department alleging that they had conspired and instigated the complainant to file a false complaint and he has submitted evidence in support of the allegation in the form of conversations recorded in a pen-drive. The opposite party no. 2 has sent a complaint dated 07.05.2023 to the Director General, GSI against (i) Raj Kumar Chauhan, Deputy Director (Personal & Administration) GSI, Director General Camp Office, New Delhi and (ii) Ashok Kumar Singh, Assistant Director (Personal and Administration) GSI, New Delhi reproducing a transcript of the aforesaid conversation showing that they had instigated the complainant to file a false complaint against the opposite party no. 2 and in response to this suggestion the complainant had stated that the opposite party no. 2 had not said anything to her. The opposite party no. 2 has requested the Director General to take action against the aforesaid two officers but it appears that no action has been taken against those two officers. The Internal Complaints Committee had found opposite party no. 2 as well as the complainant guilty of aggravating their personal issues to the extent that the whole office suffered and the

committee had recommended appropriate action to be taken against both the opposite party no. 2 and the complainant but action has been taken against opposite party no. 2 only and no action has been taken against the complainant in spite of the recommendation of the internal complainants committee. It prima facie indicates that the authorities have acted vindictively against the opposite party no. 2 while shielding the other erring persons.

21. In these circumstances, no fresh proceedings can be drawn against the opposite party no. 2 on the ground that he has committed an act of sexual harassment against the complainant.

22. Although it is a general principle of law that the validity of an order is to be examined on the basis of the reasons mentioned in the order. It is equally well settled that even if an order suffers from some illegality, the High Court will not exercise its jurisdiction to quash the same if it would result in restoration of another illegality or if it would propagate an injustice. The High Court being a court record as mentioned in Article 215 of the Constitution of India, has all powers inherent in such a court so as to secure the ends of justice. Interfering in the impugned order passed by the tribunal for on the ground that the reason assigned by the Tribunal for setting aside the order is incorrect, would result in initiation of fresh disciplinary proceedings against the opposite party no. 2, which is not warranted for the reasons mentioned in this order and which would not be in the interest of justice.

23. In view of the aforesaid discussion, we do not find any good ground to interfere with the judgment and order

dated 08.05.2024 passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow in Original Application No. 332/00365 of 2023 and to permit fresh disciplinary proceedings against the opposite party no. 2, although for reasons different from the reason mentioned by the tribunal in the impugned order.

24. Accordingly, the writ petition is dismissed. Costs made easy.

(2025) 1 ILRA 792
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 03.01.2025

BEFORE

THE HON'BLE ATTAU RAHMAN MASOODI, J.
THE HON'BLE SUBHASH VIDYARTHI, J.

Writ -A No. 12938 of 2024

Smt. Pin Maya Kumal **...Petitioner**
Versus
Govt. of India & Ors. **...Respondents**

Counsel for the Petitioner:
 Ashok Kumar Srivastava

Counsel for the Respondents:
 A.S.G.I.

A. Service Law – Pension - Defence Service Regulation: Regulation 333; Hindu Marriage Act, 1955 - Second marriage can be contracted only in certain circumstances and that too after obtaining sanction from the competent authority and any violation of this provision may attract termination of service of concerned employee. (Para 16)

In the present case, Late Tek Bahadur Thapa was a Nepalese Gorkha and as per Regulation 333 quoted above, he could have remarried in the following circumstances: -

(i) When the wife suffers from incurable insanity (madness),

(ii) When there is no birth till ten years of marriage,
 (iii) When the wife is paralysed and cannot move,
 (iv) When the wife becomes blind of both the eyes.
 (v) When the wife is suffering from an infectious incurable sexually transmitted disease. (Para 7)

Late Tek Bahadur Thapa had four daughters and a son from his first marriage and it is nobody's case that his first wife Smt. Dalli Maya Kumal suffered from any disease/infirmity mentioned in Regulation 333(B)(a) of Army Regulations. Sri Tek Bahadur Thapa did not apply for sanction to contract plural marriages on any of the grounds mentioned in Regulation 333(B)(b). Service of the person who has contracted plural marriages without obtaining sanction from the competent authority can be terminated under the provisions contained in Regulation 333(B)(g) of Army Regulations, but the fact of Late Tek Bahadur Thapa having entered into plural marriages was not brought to the notice of the authorities during his service period or even thereafter during his life time. Therefore, no administrative action for termination of his service was taken. (Para 6, 8)

B. The petitioner could not point out any provision of law under which this marriage (1st marriage) was void. Therefore, it cannot be accepted that the marriage of late Tek Bahadur Thapa with Smt. Dalli Maya Kumal was void. (Para 14)

C. The submission that the petitioner is an illiterate person and she was not responsible for proper upkeep of the service records of her deceased husband and it was for the authorities to correctly maintain the service records of late Tek Bahadur Thapa and record the name of the petitioner therein as wife, does not hold any force as information about family members/dependents is given to the authorities by the concerned employee/officer himself. (Para 15)

The Armed Forces Tribunal dismissed the original application filed by the petitioner on the