

Court No. - 6

Case :- WRIT - A No. - 19167 of 2024

Petitioner :- Sheetal Chaudhary

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Vinay Kumar

Counsel for Respondent :- C.S.C., Suresh Kumar Maurya

Hon'ble Ajay Bhanot, J.

Shri Shashi Prakash Singh, learned Additional Solicitor General assisted by Shri Manoj Kumar Singh, learned Central Government Counsel on behalf of Union of India and Shri Ashok Mehta, learned Additional Advocate General assisted by Shri Shubhranshu Shekhar, learned Additional Chief Standing Counsel are present in Court.

Major Steve Barreto, OIC, Legal Cell HQ Purva UP & MP Sub Area and Squadron Leader Sunil Kumar, Air Force Station Bamrauli are also present in Court.

The matter relates to redressal of grievance and provide protection and other welfare measures for families of service personals who are posted in different parts of the country. This Court 04.12.2024 passed the following order;

"The petitioner's husband is a serving army personnel who is deployed at a sensitive border area. The petitioner is being harassed by one Nepal Singh who is a Shiksha Mitra. The Commanding Officer of the petitioner's husband has written a letter in this regard to the District Collector, Firozabad as well as Superintendent of Police, Firozabad for taking appropriate measures and providing redress to the family. The relevant parts of the letter are being extracted hereunder:

"WELFARE OF SOLDIER FAMILY"

"1. An application dated 08 September 2024 from JC-473099X Subedar Hamvir Singh, S/o Shri Bijendra Singh resident of Vill-Nagla Tulsi, Post Office-Tundla, Tehsil - Tundla, District-Firozabad (Uttar Pradesh), is hereby forwarded for your review and necessary action please.

2. Subedar Hamvir Singh is currently serving with 20th Battalion of the Rajputana Rifles of Indian Army since 12 Jan 1999 and is presently deployed in a sensitive area along the Line of Control in Jammu & Kashmir. His wife, Mrs. Sheetal Chaudhary, is employed as an Assistant Teacher at a Primary School in Siroliya. Mr. Nepal Singh, a resident of Village - Kutubur Jarkhi, has apparently been harassing and threatening Mrs. Sheetal Chaudhary, using abusive language. This has caused significant distress to the individual in discharge of his duties and also severely impacting her husband's ability to perform his military duties.

3. I therefore request that your esteemed office to investigate the matter as mentioned in the application and assist in resolving the issue faced by the family of this serving soldier. It is further requested that coordination with the District Education Officer be undertaken to either transfer Mrs. Sheetal Chaudhary to a more suitable location with better working conditions, where she can work to her full potential without frustration or to take appropriate action against Mr. Nepal Singh to ensure the issue is resolved amicably.

4. You are requested to kindly inform this office of the action taken in response to this application for the benefit of the serving soldier.

5. Your cooperation in this matter will be highly appreciated." Shri Vinay Kumar, learned counsel for the petitioner contends that despite the aforesaid letter the petitioner continues to be harassed by the said Nepal Singh-Shiksha Mitra who is attending the school regularly. No action has been taken by the State on the said communication.

Shri Suresh Kumar Maurya, learned counsel for the respondent No.4-Basic Shiksha Adhikari, Firozabad contends that the said Nepal Singh-Shiksha Mitra has been transferred to another place but he is attending the school for some other works.

It appears that the District Magistrate, Firozabad and the Superintendent of Police, Firozabad have not taken the cognizance of the letter written by the Commanding Officer, 20th Battalion of the Rajputana Rifles and have failed to address the issues raised therein.

Shri Subhranshu Shekhar, learned Additional Chief Standing Counsel for the respondents-State shall file an affidavit on behalf of the State and obtain proper instructions from the District Collector, Firozabad

and the Superintendent of Police, Firozabad on the next date of listing. The action taken as per law against the said Nepal Singh-Shiksha Mitra shall also be disclosed in the affidavit. The details of action on the communication sent by the Commanding Officer, 20th Battalion of the Rajputana Rifles shall be forwarded to the latter.

In case the affidavit as well as proper instructions are not forthcoming, the District Magistrate, Firozabad and the Superintendent of Police, Firozabad shall remain present before the Court on the next date of listing.

Armed forces are the custodians of the sovereignty and integrity of the country. Defence personnel perform their high duties even at the peril of their lives. The storied history of the Indian Armed Forces is about lives of the men and women in uniform who have always been willing to pay any price, to suffer all privations, and to make the supreme sacrifice for the defence of our nation.

The families of service personnel are often separated due to exigencies of military service. A solemn obligation is cast on a grateful nation to ensure that the families of service personnel who are separated are fully protected and their welfare is catered to by the State Government. Families of military personnel thus separated become vulnerable on account of an unresponsive administration, and the servicemen become despondent while facing an impersonal bureaucracy. The families of defence personnel thus separated cannot be abandoned or left to their own devices by the State. The sacrosanct promise of the State and the pious duty of State officials is thus to ensure the safety, well being and welfare of families of service personnel who are separated due to exigencies of military service.

The promise of the State to all defence personnel is irrevocable. The duty of the State officials to redeem the promise is inviolable. This assurance should warm the hearts and fortify the souls of the defence personnel who guard our frontiers.

The State authorities / local administrations have to ensure that any communication sent by a serving military officer/formation commander/commanding officer in regard to harassment or other problems being faced by the family members of defence personnel posted elsewhere are promptly attended to and efficaciously redressed by the competent State authorities. The same is true for family members of those military personnel who embrace martyrdom while protecting the nation. A system of accountability has to exist in the State Government. Appropriate action has to be taken against the officers who

show the apathy to the plight of the family members of military personnel serving in different parts of the country or are negligent in redressal of their grievances.

The State Government is directed to formulate a policy for the welfare, safety and well being of the families who are separated from their kith and kin due to exigencies of military service. The policy shall create structures to promptly deal with complaints of harassment and threats being extended to family members of military personnel serving in different parts of the country or those who perish fighting for the nation. The policy shall identify/nominate officials including the District Magistrates and the police chiefs of the districts and other nodal officials in various ministries to implement the aforesaid scheme.

The State can discharge these obligations only if there is full concert between the State Government, the local administration and the military authorities or fall in the line of the duty. A joint committee comprising of senior State and military officials shall regularly meet and constantly monitor the compliance of the above directions. The military authorities shall also create a structure wherein the complaints are forwarded to the nearest military formations where the separated families are residing and monitor the progress of action taken on each complaint.

The Chief Secretary, Government of Uttar Pradesh, Lucknow and General Officer Commanding-in-Chief Central Command shall conduct a meeting within 10 days and devise an appropriate mechanism for compliance of the above directions.

Shri Shashi Prakash Singh, learned Additional Solicitor General of India has appeared on behalf of the Union of India and Shri Subhranshu Shekhar, learned Additional Chief Standing Counsel for the respondents-State shall file their respective affidavits in this regard. The affidavits shall be filed on or before 15.12.2024.

Put up this matter on 09.12.2024 in the list of fresh cases at 10 A.M. for the response of the District Magistrate, Firozabad, Superintendent of Police, Firozabad, District Basic Education Officer, Firozabad on affidavit.

Shri Subhranshu Shekhar, learned Additional Chief Standing Counsel for the respondents-State shall personally communicate this order to the Chief Secretary, Government of Uttar Pradesh, Lucknow for compliance."

Shri Ashok Mehta, learned Additional Advocate General assisted by Shri Shubhranshu Shekhar, learned Additional

Chief Standing Counsel on behalf of the State has placed the Government Orders dated 17.09.2008, 30.03.2015, 06.05.2015 and 30.06.2016 which provide for redressal of grievances of the said category of families of serving defence personnel. Learned Additional Advocate General contends that the said Government Orders show that the State Government accords highest regard to serving defence personnel who hold the front line of our nation. The Government Orders also depict the commitment of the State Government to take all measures as per law for the welfare and security of the families of the serving defence personnel who are separated from the latter on account of exigencies of military service.

It has further been submitted on behalf of the State Government by Shri Ashok Mehta, learned Additional Advocate General that the State Government is open to incorporating suggestions from the defence services for upgrading the aforesaid scheme and realizing its intent.

The Court appreciates the unconditional commitment of the State Government to the separated families of our defence personnel expressed in unequivocal terms by the learned Additional Advocate General. Now the ball is in the court of Central Government and defence authorities.

Prima facie it appears from the submissions made at the Bar that some structural and procedural issues are

obstructing the realization of the noble intent of the aforesaid Government Orders.

A few of the aforesaid issues which are liable to be addressed by the State Government and the military authorities while providing for welfare measures for the said category of families of the serving defence personnel are as under:

I. The scheme for welfare measures and grievance redressal mechanism for families of serving defence personnel who are separated on account of exigencies of military service has to be drawn up and evolved by the State Government with active participation and inputs from serving senior defence officials.

II. A permanent committee composed of senior defence officials (representing the interests of all three services) and senior officials of the State Government will be the apex body which shall constantly supervise the implementation and upgradation of the aforesaid Government Orders and grievance redressal mechanism. The committee shall meet at regular intervals.

III. At the local level similar committees having representation of local administration and nearest military formation can process the implementation of the grievance redressal mechanism or welfare measures scheme of the

State Government.

IV. The scheme of grievance redressal and welfare measures should provide for the procedure and nominated officials responsible for implementing the same.

V. The procedure and the welfare measures and grievance redressal mechanism may be upgraded from time to time on the basis of experience gained while implementing the aforesaid measures.

It is noteworthy that this Court had earlier noticed instances where due State honours were not given to a national hero who had fallen in the line of duty. This Court in **Vivek Yadav Alias Surya Prakash Yadav Vs. State of U.P.** rendered in Criminal Misc. Bail Application No. 23466 of 2022 held as under:

"It is asserted that the mortal remains of the brave soldier who fell in the line of the duty were not received and treated with due State honours befitting a national hero. These are matters of fact which can be ascertained only after due enquiry. The State Government shall cause an enquiry to be conducted into the matter.

A nation that does not honour its martyrs who lay down their lives to protect freedom and preserve the peace, will forfeit its freedom and have no peace. India has known the cost of slavery, and Indians have never hesitated to pay the price of freedom. For the Republic to endure and liberty to survive martyrs have to be revered, and their deeds always remembered.

The solemn obligation of the State is to accord full honours to military heroes who make the ultimate sacrifice in defence of the country. Duty is cast on a grateful nation to ensure that the patriots do not go unwept, unhonoured and unsung.

The State in consultation with the highest military authorities shall consider framing of a code or regulations laying down the protocol for receiving and bearing the carriage of mortal remains of soldiers martyred in the line of duty, for the funeral rites and any other allied matters . The exercise is liable to be

completed within a period of six months."

The aforesaid committee shall also lay down a procedure for implementing the judgement of this Court in **Vivek Yadav (supra)**.

Major Steve Barreto, OIC, Legal Cell HQ Purva UP & MP Sub Area submits that the order passed by this court has already been communicated to the Central Command. The senior most authorities at the Central Command are proceeding expeditiously to draw up a proposal for effective implementation of the welfare measures and grievance redressal mechanisms and to create a structure comprising defence officials and civil servants for the said process.

An affidavit to this effect shall be filed on the next date of listing by the military authorities.

Interest of the defence services will be served best and the intent of the State Government shall be realized fruitfully only if such affidavit on behalf of military authorities is filed after due consultation of the GOC-in-C, Central Command with the Chief Secretary, Government of U.P. The GOC-in-C, Central Command or his nominated official shall have similar consultations with the two sister services Navy and Air Force.

The matter has already been heard in part and the dictation

of the judgment has started. Put up this matter on 18.12.2024 in the list of fresh cases at 10 A.M for dictation of the concluding part of the judgement.

Order Date :- 12.12.2024
Dhananjai