

SUPREME COURT OF INDIA**Bench: Justices Sanjiv Khanna and Dipankar Datta****Date of Decision: 14th February 2024**

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1990 OF 2019

UNION OF INDIA AND OTHERS ...APPELLANT(S)**VERSUS****EX. LT. SELINA JOHN ...RESPONDENT(S)****Legislation: None.**

Subject: The appeal involves the challenge against the release of Ex. Lt. Selina John from the Military Nursing Service on the ground of her marriage, addressing issues of gender discrimination and the right to non-discrimination and fair treatment.

Headnotes:

Service Law - Military Law and Gender Discrimination – Invalidity of Termination on Grounds of Marriage – The Supreme Court, in addressing the issue of Ex. Lt. Selina John's termination from the Military Nursing Service post-marriage, held that such termination was wrongful and illegal. The rule mandating release on grounds of marriage, applicable solely to women, was deemed manifestly arbitrary and constituting gender discrimination. [Para 1-2]

Constitutional Law – Right to Non-Discrimination and Fair Treatment – The Court emphasized that laws or regulations perpetuating gender-based bias violate constitutional mandates. Specifically, it was held that rules which treat marriage and domestic responsibilities of women as a basis for employment termination are unconstitutional. [Para 3]

Modification of Army Instruction – The Court noted the withdrawal of Army Instruction No. 61 of 1977, which governed the terms of service for permanent commissions in the Military Nursing Service, further reinforcing the stance against gender-based employment policies. [Para 4]

Award of Compensation – In light of the unjust termination, the Supreme Court directed the appellants to pay Ex. Lt. Selina John compensation of Rs. 60,00,000. The compensation was declared as a full and final settlement of all claims. The Court also stipulated an interest penalty for delayed payment. [Para 5-6]

Referred Cases: None.

ORDER

The conclusion drawn in the impugned judgment that the respondent – Ex. Lt. Selina John’s release from the Military Nursing Service was wrong and illegal, does not require any interference, in spite of the arguments raised, questioning the reasoning given by the Armed Force Tribunal, Regional Bench, Lucknow.

We are unable to accept any submission that the respondent – Ex. Lt. Selina John, who was a Permanent Commissioned Officer in the Military Nursing Service, could have been released/discharged on the ground that she had got married. This rule, it is accepted, was applicable to only women nursing officers. Such rule was *ex facie* manifestly arbitrary, as terminating employment because the woman has got married is a coarse case of gender discrimination and inequality. Acceptance of such patriarchal rule undermines human dignity, right to non-discrimination and fair treatment. Laws and regulations based on gender-based bias are constitutionally impermissible.¹ Rules making marriage of women employees and their domestic involvement a ground for disentitlement would be unconstitutional.²

We may also observe that Army Instruction No. 61 of 1977 titled "Terms and conditions of service for the grant of permanent commissions in the

¹ *Anuj Garg and Others v. Hotel Association of India and Others* (2008) 3 SCC 1.

² *C.B. Muthamma v. Union of India* (1979) 4 SCC 260.

Military Nursing Service", as informed, has been withdrawn by a subsequent letter dated 29.08.1995.

During the course of hearing, it was fairly pointed out by the learned counsel for the respondent that the respondent – Ex. Lt. Selina John did work as a nurse for short time in a private organisation.

Keeping in view the facts and circumstances of the present case, we direct the appellant(s) to pay compensation of Rs.60,00,000/- (rupees sixty lakh only) to the respondent – Ex. Lt. Selina John within a period of eight weeks from the date a copy of this order is served/made available to them.

In case the payment is not made within a period of eight weeks, the appellant(s) will pay interest at the rate of 12 per cent per annum from the date of this order till the payment is made.

The aforesaid compensation of Rs.60,00,000/- (rupees sixty lakhs) will be in full and final settlement of all the claims of the respondent – Ex. Lt. Selina John against the appellant(s).

The impugned judgment directing the reinstatement of the respondent – Ex. Lt. Selina John with back-wages etc. will be treated as modified in terms of the above direction.

Recording the aforesaid, the appeal is disposed of in the above terms.

Pending application(s), if any, shall stand disposed of.

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