



MAJESTY LEGAL
Advocates & Solicitors

DISMISSAL OF FEMALE NURSING OFFICERS ON GROUNDS OF MARRIAGE, UNCONSTITUTIONAL & PATRIARCHAL

UNION OF INDIA VS. EX. LT. SELINA JOHN.

In a landmark decision, Hon'ble Supreme Court has ruled that terminating employment based on a woman's marriage is a coarse case of gender discrimination and inequality. The acceptance of such patriarchal norms undermines human dignity, the right to non-discrimination, and fair treatment. During the hearing of the case *Union Of India Vs. Ex. Lt. Selina John*.¹, Hon'ble Supreme Court observed that releasing a permanent commissioned officer from the Military Nursing Service solely due to her marriage constitutes unjust gender discrimination and inequality. Furthermore, it emphasized that laws and regulations displaying gender bias are constitutionally impermissible as the Military Nursing Service Branch operated under Army Instruction No. 6 of 1977, titled "Terms and conditions of service for the grant of permanent commissions in the Military Nursing Service", according to this instruction, termination of appointment could occur based on the assessment of the Medical Board for being unfit for service, marriage, or misconduct. Additionally, Hon'ble Supreme Court noted that rules disqualifying female employees based on marriage or domestic responsibilities would be unconstitutional.

Consequently, Hon'ble Supreme Court directed the appellant(s) to compensate the respondent with Rs.60,00,000/- (sixty lakh rupees only), which shall serve as a complete and final settlement of all claims.

TEAM MAJESTY LEGAL²

OFFICE : B-87, Alaknanda Apartment, G-1, Ganesh Marg/Moti Marg, Bapu Nagar, Jaipur, Rajasthan-302015.

https://maps.app.goo.gl/BsUvY9RWyvUt6JcB9?g_st=iw

CHAMBER : 204, E-Block, Rajasthan High Court, Jaipur.

MOBILE No. : 9785461395

E-MAIL : mahi@majestylegal.in

WEBSITE : www.majestylegal.in

¹ CIVIL APPEAL NO. 1990 OF 2019

² Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 1990 OF 2019

UNION OF INDIA AND OTHERS

APPELLANT(S)

VERSUS

EX. LT. SELINA JOHN

RESPONDENT(S)

O R D E R

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 **human** has got married is a coarse case of gender discrimination and **equality**. 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 disentanglement 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 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

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.

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.

.....J.
(SANJIV KHANNA)

.....J.
(DIPANKAR DATTA)

NEW DELHI;
FEBRUARY 14, 2024.

ITEM NO.101

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1990/2019

UNION OF INDIA & ORS.

Appellant(s)

VERSUS

EX. LT. SELINA JOHN

Respondent(s)

(IA No. 3/2016 - STAY APPLICATION)

Date : 14-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE DIPANKAR DATTA

For Appellant(s) Mr. Vikramjit Banerjee, A.S.G.
Mr. R. Bala, Sr. Adv.
Mr. Mukul Singh, Adv.
Mr. VVV Pattabhi Ram, Adv.
Mr. Neelakshi Bhadauria, Adv.
Dr. Arun Kr Yadav, Dy. Gov, Adv.
Mr. Ishan Sarma, Adv.
Mr. Aditya Diksit, Adv.
Dr. N. Visakamurthy, AOR

For Respondent(s) Mr. Ajit Kakkar, Adv.
Mr. Santosh Kumar Pandey, AOR

UPON hearing the counsel, the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order.

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

(BABITA PANDEY)
COURT MASTER (SH)

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

(Signed order is placed on the file)