

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15122 of 2015

Santosh Kumar Singh Son of Sri Mohan Singh Resident of Village - Jamapur, P.O. and P.S. : Ziradei, District : Siwan and Presently posted as Constable at Central Reserve Police Force, 21 - Battalion, Srinagar (J & K).

.... Petitioner/s

Versus

1. The Union of India through the Secretary Home Department, Government of India, Central Secretariat, New Delhi.
2. The Deputy Inspector General, Central Reserve Police Force, Block no. 8, Wing - 2, R.K. Puram Range, New Delhi (J & K).
3. The Deputy Inspector General, Central Police Force Range, R.K. Puram, New Delhi (J & K).
4. The Commandant Central Reserve Police Force, 21-Battalion, Srinagar (J & K)
5. The Second in Command (Enquiry Officer) Central Reserve Police Force, 21 Battalion, Srinagar.
6. Rinku Devi Wife of Santosh Kumar Singh Daughter of Late Yogendra Singh Resident of Village Chhajwa, P.O. Ballan P.S. Andar, District Siwan.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sushant Kumar Dutta
For the Respondent/s : Mr. S.D sanjay (ADDL. SOC. GEN.)
Mr. Rajesh Kumar Verma, CGC

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 28-09-2015

Heard learned counsel for the parties as with regard to the following prayer made in this writ application.

“1. That the present writ application is being filed for issuing a writ in the nature Certiorari from this Hon'ble Court for quashing the order dated 13.06.2014 passed by the Inspector General, Central Reserve Police Force, Block no.8, wing-2 R.K. Puram Range, New Delhi (Respondent no.2) has rejected the Revision Petition of the Petitioner which was filed by the petitioner against his dismissal order form the service vide letter No. P-8-2/2013-21, Establishment-2



dated 02.11.2013 by the Respondent No.4 on the basis of the Enquiry Report. The Respondent No.2 while passing the impugned order held that there is no such new evidence produced in the revision Petition basing upon which, the petitioner can be held free from the charges. It was there held that the punishment of dismissal from service is proportionate to the crime/misconduct committed by the petitioner. However, the Respondent No.2 has failed to appreciate this fact that the petitioner was acquitted by the trial Court, since no case of bigamy/plural marriage could have been proved against him.

It is further prayed that after setting aside the order dated 13.06.2014 (as contained in Annexure-10), this Hon'ble court may further be pleased to give a direction upon the Respondents to reinstate the petitioner in his service with the retrospective effect of the dismissal order dated i.e. 2.11.2013 with all consequential benefits."

Though Mr. S.D. Sanjay, learned Additional Solicitor General appearing on behalf of the respondent, has raised a question of maintainability of the writ application but, then, this Court, keeping in view the earlier inter-parte order dated 28.3.2014 in CWJC No. 1522 of 2014, is inclined to hold the writ application to be maintainable, inasmuch as, earlier when the petitioner had challenged the order of dismissal passed in Jammu and Kashmir and its affirmance in appeal at Delhi in CWJC No. 1522 of 2014, the same was permitted to be withdrawn by making an observation that the petitioner should exhaust the remedy of revision and, such,



withdrawal was permitted with the consent of the then Assistant Solicitor General. Thus, now when the petitioner, being stationed in the territorial jurisdiction of this Court, had filed a revision and that revision has been rejected by the impugned order, this Court will not non-suit the petitioner on the ground of territorial jurisdiction, inasmuch as, part of the cause of action on account of passing of the revisional order and its service on the petitioner has also arisen within the territorial jurisdiction of this Court.

This Court, however, would find it difficult to interfere with the original order, the appellate order and revisional order on merit for a simple reason that the charge against the petitioner of biagamy has been found to prove by all the three authorities. In fact, the very admission of the petitioner to the extent that he wanted the name of his second wife to be incorporated in the service book will be sufficient to show that he had a subsisting wife, namely, the first wife Rinku Devi and wanted to justify his another marriage with the second lady in the life time of his first wife.

The submission of the learned counsel for the petitioner that the second wife was not produced in the departmental enquiry and, therefore, the marriage was not proved has only to be noted for its being rejected. The petitioner himself had admitted about his being married to the second wife and, that is why, he wanted the name of

second wife to be entered in the records of the CRPF. Thus, the authorities have rightly concluded as with regard to the said admission of the petitioner.

The next submission that the petitioner was acquitted in the criminal case filed by her first wife for offence under Section 498A of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act on the basis of compromise is also of no help or avail either on fact or in law. A compromise in the criminal case is never an acquittal. The petitioner, in fact, had by such compromise not only admitted the marriage to his first wife but also that they had agreed to live together under the terms and conditions of the compromise. In that view of the matter, the petitioner, being a Hindu, and not entitled to marry in the life time of his first wife which is also contrary to the Discipline, Control and Appeal Rules prohibiting such marriage, this Court would not find the finding recorded in the impugned orders for either holding the petitioner to be guilty for the misconduct or the consequential punishment of his dismissal from service to be bad on any score.

The last submission of the learned counsel for the petitioner that the punishment of dismissal from service is too harsh has to be again noted for its being rejected. The punishment to a disciplined soldier who fails to maintain the discipline of the Force by

violating the rules and committing the misconduct and also offence of bigamy cannot be equated with similar acts being committed by the civilians. In any event, such punishment, inflicted to the petitioner, cannot be said to be shocking to the conscience of the court. All the three authorities have reviewed the whole aspect including the quantum of punishment in a well considered manner and, therefore, this Court, keeping in view the principles of judicial review of punishment in a departmental proceeding as settled by the Apex Court in the case of *B.C. Chaturvedi Vs. Union of India & Ors.* reported in *1995(6)SCC 749*, would hardly find any reason to interfere with the order of punishment.

This application is, accordingly, dismissed.

(Mihir Kumar Jha, J)

Rishi/-

U			
---	--	--	--