

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.202 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 4813 of 2008
Along with
Interlocutory Application No.939 of 2015

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Jagjit Singh, Son of Late Ramgahan Singh, resident of village and P.O.-Karhia,
District- Gajipur (Uttar Pradesh).

.... Petitioner-Appellant

Versus

1. The Union of India, through Ministry of Home Affairs, New Delhi.
2. The Inspector General / Eastern Range, CISF, Patna. CISF Premises, Patliputra Colony, Patna.
3. The Deputy Inspector General, CISF, Eastern Zone, Head Quarter, CISF Premises, Patliputra Colony, Patna.
4. The Commandant CISF, 4th Reserve Battalion Ranchi.
5. The Enquiry Officer (Sri Arun Kumar) No. 871090319 CISF, 4th Reserve Battalion, CISF, Ranchi.

.... Defendants-Respondents

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Appearance :

For the Appellant/s : Mr. Nil Kamal, Advocate

For the Respondent/s : Mr. Sanjay Kumar (ASG)

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 04-05-2016

Re.: Interlocutory Application No.939 of 2015

The application is for condonation of delay of 72 days in
filing of the appeal.

For the reasons mentioned in the application and explained
by the learned counsel for the appellant, we find that sufficient cause is
made out for condonation of delay. Consequently, the delay of 72 days
in filing of the appeal is condoned.

Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.202 of 2015

The order dated 25th of August, 2014 passed by the learned Single Bench of this Court in C.W.J.C. No.4813 of 2008 is subject matter of challenge in the present Letters Patent Appeal whereby the order of removal from the post of Constable was not interfered with.

The appellant joined as Constable in the 4th Reserve Battalion at Ranchi on 20th July, 2000. Subsequently, he was attached with the 2nd Reserve Battalion, Mahipalpur, New Delhi. At that time, a complaint was received from the lady constable, namely Daslisha, who alleged that the appellant fraudulently married her when he was already married with a girl, namely, Nibha, daughter of Santosh Singh on 25th March, 2003.

The appellant was charge-sheeted on 12 charges. The Enquiry Officer in his report dated 27.1.2006 found all the charges proved against the appellant. The copy of the enquiry report was supplied to the appellant and appellant was given an opportunity to file his reply. After considering the reply, the disciplinary authority passed an order of removal from service on 25th May, 2006. The further appeal was dismissed on 29th September, 2006 and the revision on 29th August, 2007. It is thereafter, the writ petition was filed which stands dismissed by the order impugned in the present Letters Patent Appeal.

Learned counsel for the appellant argued that there is allegation against the appellant of marriage during subsistence of first marriage, therefore, such action does not interfere with the working of the appellant as constable, and therefore, the order of punishment imposed is harsh and disproportionate to the misconduct alleged.

Before the learned Single Bench, the argument was that the marriage was not proved. The learned Single Bench referred to the decisions of the Supreme Court reported as State Bank of India & Others Versus Ramesh Dinkar Punde, (2006) 7 SCC 212 and also Union of India and another Versus K. G. Soni, (2006) 6 SCC 794 to hold that the punishment imposed cannot be reassessed after report of the enquiry officer as in enquiry proceedings strict rules of Evidence Act are not applicable.

We have heard learned counsel for the parties and find that Rule 18 the Central Industrial Security Force Rules, 2001 (for short, 'the Rules') prohibits that no person, who has spouse living, can enter into or contract a marriage with another person. Thus, there is a violation of the statutory Rules when appellant married Ms. Daslisha.

In exercise of power of judicial review, the writ court examines the decision making process and not the ultimate decision. Learned counsel for the appellant could not point out any infraction of any rule or procedure or the principles of natural justice which could

warrant interference by the Court in exercise of judicial review. There is no illegality or irregularity pointed out in the course of conduct of the enquiry proceedings or the decision thereafter. We do not find that any ground is made out for interference against the orders passed by the authorities in the present Letters Patent Appeal.

The argument that the order is disproportionate to the misconduct is misconceived. The appellant has violated the Statutory Rules. We do not find that the punishment imposed can be said to be disproportionate. Still further, the quantum of punishment falls within the exclusive domain of the disciplinary authority. We do not find that the punishment imposed is so disproportionate which shocks conscience of this Court.

In view thereof, we do not find any merit in the Letters Patent Appeal and the same is dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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