

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1819 of 2016

Jai Prakash Paswan (Constable No. R/300) S/o Ram Kewal Paswan, aged about 28 years, Posted At D Samway Camp Timer, 12th Battalion, C.S.A.F. Ramanujganj, District Balrampur, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, (Chhattisgarh)
2. Commandant, 12th Battalion, Chhattisgarh Arms Force, Ramanujganj, District Balrampur, (Chhattisgarh)
3. Assistant Commandant, 12th Battalion, Chhattisgarh Arms Force, Ramanujganj, District Balrampur, (Chhattisgarh)
4. Girja Paswan, D/o Devnath Paswan, J. J. Camp, G. & N Block, Village Badli, Delhi 110042

---- Respondents

For Petitioner	:	Shri C.K. Kesharwani, Advocate
For Respondent/State	:	Shri R.K. Gupta, Dy.A.G., on advance copy

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/06/2016

Heard on admission.

1. This petition has been filed by the petitioner calling in question the correctness and validity of initiation of departmental inquiry vide charge sheet dated 26.2.2016.
2. Learned counsel for the petitioner argued that the petitioner is being falsely implicated under a well-hatched ill-design of respondent No.4. who is making false allegation against the petitioner. The petitioner has clearly made a

statement in the preliminary inquiry that he has not contacted marriage with respondent No.4 and, therefore, prima facie, no allegation of bigamous marriage is made out against the petitioner. Learned counsel for the petitioner submits that without any substance and basis for initiation of departmental inquiry, on bogus and frivolous charges, departmental inquiry has been initiated against the petitioner. Therefore, the petitioner seeks shelter and protection of the Court of law.

3. On the other hand, learned counsel for the State submits that the petition is misconceived at this stage. He submits that a preliminary inquiry was made during which petitioner's statement was also recorded. There is prima facie material including admission of the petitioner that the petitioner contacted second marriage and, therefore, a prima facie case for initiation of departmental inquiry is made out on the allegation of bigamous marriage which is a misconduct under Rule 22 of the Chhattisgarh Civil Services (Conduct) Rules 1965.
4. There are allegations and counter allegations. However, at this stage, interference by the writ Court in the matter of initiation of departmental inquiry is not permissible except on extraordinary grounds. Present is not a case where the petitioner has challenged the initiation of departmental inquiry on the ground that the authority who has issued the charge sheet is not competent under the rules to institute departmental inquiry. It is also not a case where the challenge is made on malafide exercise of power by respondent- disciplinary authority for extraneous reasons.

The allegations are of bigamous marriage. Though the petitioner disputes it, a preliminary inquiry has been made and report has been submitted. It is not a case where the statement of allegation, even if accepted as it is, do not constitute misconduct within the meaning assigned to it under the Conduct Rules.

5. Unless extraordinary grounds as stated herein-above are made out, ordinarily the writ Court would not substitute itself in the place of disciplinary authority and interdict the departmental inquiry at the threshold of issuance of charge sheet. It needs no authority for the proposition that in the absence of there being any

allegation of absence of jurisdiction, malafides or no prima facie case of misconduct made out, it is for the disciplinary authority and not for the Court to examine the charges of misconduct. The petitioner would have full opportunity and liberty to controvert the charges by leading in defence oral and documentary evidence in rebuttal of the charges.

6. In the absence of any extraordinary ground made out warranting interference by the writ Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, the petition is liable to be dismissed as not maintainable at this stage. However, before parting with the matter, it is made clear that this Court has not made any comments on the merit of the case. The petitioner would have the fullest opportunity to rebut the charges in the departmental inquiry by leading oral and documentary evidence.
7. With the aforesaid observations, the petition is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge