

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1502 of 2013

In
Civil Writ Jurisdiction Case No.3390 of 2009

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1. The Union of India through the Director General of Police, C.R.P.F., Head Quarter, New Delhi.
 2. The Inspector General of Police, C.R.P.F., Bihar Sector, Patna.
 3. The Deputy Inspector General of Police, C.R.P.F., Bihar, Sector, Digha, Patna.
 4. The Commandant, 4th BN. C.R.P.F., Smailpur, Jammu, State of Jammu and Kashmir.

... .. Appellant/s

Versus

Sanjay Kumar Ojha, S/o Ram Awtar Ojha, Resident of Village Bandha, P.S- Behia, District- Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S.D. Sanjay, Addl. S.G. Mr. Rajesh Kumar Verma, C.G.C.
For the Respondent/s	:	Mr. Sanjay Kumar Giri, Advocate Mr. Pranav Kumar, Advocate Mr. Rajeev Ranjan No. II, Advocate Mr. Raju Kumar Singh, Advocate Ms. Kumari Seema Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date : 23-11-2017

Seeking exception to an order dated 17.06.2013



passed by the learned Writ Court in C.W.J.C. No. 3390 of 2009 this appeal has been filed by the Union of India through the Director General of Police, C.R.P.F. Headquarters, New Delhi.

Respondent was a constable working in the force in question and vide order dated 2nd of November, 2007 passed by the Commandant, 4th Battalion, C.R.P.F., he was awarded punishment of dismissal from service on account of the fact that he has contracted a second marriage while his first wife was alive and under the Rule 15 of the Central Reserve Police Force Rules, 1955 plural marriage is prohibited.

The learned Writ Court interfered into the matter after hearing the parties concerned primarily on two counts. The first was that a coordinate Single Bench of this Court in C.W.J.C. No. 10674 of 2002 (Pramod Kumar Yadav Vs. Union of India & Ors.) decided on 24.09.2002 under similar circumstances had set aside the punishment imposed on a constable in the C.R.P.F. as he had solemnized the second marriage during the life time of his first wife. The second ground which found favour with the learned Writ Court was that under Section 11 of the C.R.P.F. Act a major punishment of dismissal from service cannot be imposed until and unless orders are passed with regard to punishment of the delinquent



employee for heinous offences as classified under Section 9 and Section 10.

Heaving heard learned counsel for the parties at length, we find that even though the learned Writ Court has placed reliance on the Single Bench judgment in the case of Pramod Kumar Yadav (supra), the said judgment in the case of Pramod Kumar Yadav had been set aside by a Division Bench of this Court in the case of **The Union of India & Ors. Vs. Pramod Kumar Yadav- 2003 (3) PLJR 690** and it has been held that a person who has indulged in a misconduct of plural marriage has no place to work in an establishment like the military or a para military force and the order passed by the Writ Court was set aside. That being so, the reliance placed by the learned Writ Court on the Single Bench judgment in the case of Pramod Kumar Yadav is clearly unsustainable. That apart, the law laid down by the Division Bench in the case of Pramod Kumar Yadav has been followed subsequently by another Division Bench of this Court in the case of **Union of India & Ors. Vs. Subodh Kumar and Anr. - 2003 (4) PLJR 207** wherein again on account of misconduct committed under Rule 15 of the Central Reserve Police Force Rules, 1955 an order dismissing an employee from service on account of contracting



plural marriage has been upheld.

In view of the aforesaid enunciation of law by the learned Division Benches of this Court, we find that once the employee is found to have committed a misconduct which falls under Rule 15 of the Rules of 1955 the action taken for dismissal cannot be interfered with by this Court. That apart, the findings recorded by the learned Writ Court to say that under Section 11 major punishment of dismissal cannot be imposed is also found to be unsustainable in view of the law laid down by the Supreme Court in the case of **Union of India and others Vs. Ghulam Mohd. Bhat- (2005) 13 SCC 228**. It has been held by the Hon'ble Supreme Court in the aforesaid case that for a misconduct of over stay of leave which is a civil offence a punishment of dismissal under Section 11 is permissible. The aforesaid law was laid down by the Supreme Court after taking note of various earlier judgments on the issue in question.

Taking note of all these circumstances, we find that the order passed by the learned Writ Court cannot be sustained on both the grounds which found favour with the learned Writ Court.

Accordingly, we allow this appeal, quash the order passed by the learned Writ Court and uphold the action taken by



the authorities of the Central Reserve Police Force. The appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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