

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6534 of 2006

RAM CHANDRA SHARMA SON OF LATE GANESH SHARMA, RESIDENT OF MOHALLA
SHRI RAM NAGAR GAJADHAR CHOWK, GOLA ROAD DANAPUR PATNA

.... Petitioner

Versus

1. THE STATE OF BIHAR THROUGH THE COMMISSIONER CUM SECRETARY
DEPARTMENT OF HOME POLICE BIHAR
 2. THE COMMISSIONER CUM SECRETARY DEPARTMENT OF HOME POLICE BIHAR
 3. THE DGP, BIHAR
 4. THE IGP, RAILWAY, BIHAR
 5. THE DEPUTY SECRETARY, DEPARTMENT OF HOME POLICE, BIHAR, PATNA
 6. THE SP RAILWAY, PATNA
- Respondents

Appearance :

For the Petitioner : Mr. Rakesh Kumar, Advocate &
Mr. Rakesh Sinha, Advocate
or the Respondents : Mr. Anil Kumar, AC to SC 8

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 15-03-2018

Head learned counsel for the petitioner as well as learned
counsel for the State.

2. The petitioner has approached this Court by way of the instant writ petition for a direction to the respondent police authorities to reinstate him in service on the post of Havildar (Head constable) in Government Railway Police, Patna with effect from 16.11.1991 and to pay all the consequential monetary benefits quashing order of the Superintendent of Police (Railway), Patna vide order no. 10020/91 dated 16.11.1991 (Annexure 1), whereby he has been dismissed from service. He has also prayed for quashing of order of the Inspector General of Police (Railway), Bihar, Patna (respondent no.4) passed vide memo no. 450 dated 28.4.1993 (Annexure 2), by which order of dismissal has been modified into



compulsory retirement of the petitioner.

3. It is the submission of the petitioner that since the charge of solemnizing second marriage was not proved against the petitioner, he could not have been inflicted with the punishment of dismissal, which was modified into compulsory retirement in appeal.

4. State has filed counter affidavit, wherein the undisputed/admitted facts have been relied upon. From perusal of order dated 28.4.1993 (Annexure 2), passed by the IGP (Railway), it is evident that the IGP, while considering petitioner's appeal, has found that his first wife Smt. Nepura Devi did not appear to support the allegation levelled against him rather the enquiry proceeded on the basis of her written statement dated 17.7.1987. He has taken note of the petitioner's explanation dated 20.7.1988 submitted in response to the charges, wherein he (the petitioner) has submitted that prior to his appointment to the post of a constable on 8.12.1967, he entered into second marriage with one Madhuri Devi in 1965 and since the same had not been done while in service, he could not be charged with having violated the provision of Rule 18 of the Bihar Government Servant's Conduct Rules, 1976. Counsel for the State draws the attention of the Court towards the appeal order dated 19.5.1992 (Annexure B), passed by the DIG, Railway, Bihar in which he has taken note of the petitioner's explanation dated 20.8.1987 wherein the petitioner has stated that before coming into



service, he solemnized second marriage in 1965 with the consent of his first wife.

5. It appears from the records that the service book of the petitioner was examined to see whether at the time of his appointment he disclosed the fact of second marriage in the service book. It was found that only the name of his first wife was mentioned in the service book. Thus, the charge of performing second marriage was falsified on the basis of the records available. The authorities, in spite of that have relied upon the application given by the petitioner for seeking appointment of the said lady in which he has claimed her to be his wife. Thus, the factual findings recorded during the departmental proceeding, has not been disputed in the writ petition. The petitioner is only harping on the fact that the charge of bigamy has not been established and therefore there is no reason to pass the impugned order of compulsory retirement.

6. This Court, from perusal of the order dated 28.4.2013, finds that the IGP, Railway, Bihar (respondent no.4) has taken into consideration that the charge of bigamy has not been proved against the petitioner. He has, therefore, set aside/modified order of the petitioner's dismissal from service. However, in view of the aforesaid malicious and false stand taken by the petitioner in the proceedings regarding solemnizing of the second marriage prior to his appointment and thereafter submitting an application before the authorities seeking appointment of the lady in question claiming her



as his wife, he has indulged in action which is not becoming of a members of the Force inasmuch as the indiscipline committed by him amounts to moral turpitude. The IGP, Railway, Bihar has however taken a lenient view of the matter in spite of the aforesaid findings and has only modified the order of dismissal to compulsory retirement.

7. Since, the appellate order dated 28.4.1993, passed by the IGP, Railway, Bihar modifying order dated 16.11.1991, is a well considered order, and in compliance with the Principles of Natural Justice and fair play, as well as keeping in view that continuity of the petitioner as a Member of the Force will be a breach of provisions of Rule 18 of the Bihar Government Servant’s Conduct Rules, 1976, this Court does not find any infirmity in the order.

8. The writ petition is accordingly dismissed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
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