

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.9.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.2073 of 2018

SUKHDEV SINGH

Appellant

Vs

- 1 THE COMMANDANT
OFFICE OF THE COMMANDANT-105
BNRAF/CRPF VELLORE
MAHALINGAPURAM
COIMBATORE-641 111.
- 2 DEPUTY INSPECTOR GENERAL OF
POLICE RAF/CRPF C-WING
4TH FLOOR KENDRIYA SADAN
CBD BELAPUR NAVI MUMBAI
MUMBAI STATE OF MAHARASHTRA.
- 3 DIRECTOR GENERAL OF POLICE
RAF/CRPF NEW DELHI.

Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 26.8.2014 passed in W.P.No.11900 of 2009 on the file of this court.

WP.NO.11900/2009:

Petition praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondents order dt.31.5.2007 made in No.251/06 and quash the same and consequently directing the respondents to reinstate the petitioner in service with back wages all other attendant benefits continuity of service.

For appellant : Mr.S.Gunaseelan

For respondents : Mr.S.Makesh, CGSC

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and Mr.S.Makesh, learned Central Government Standing Counsel, who takes notice on behalf of the respondents.

2. This writ appeal is filed by the writ petitioner as against the order passed by the learned Single Judge dismissing the writ petition and thereby declining to interfere with the major punishment of removal from service imposed upon him.

3. It appears that misconduct of unauthorised absence and alleged bigamy, the appellant/writ petitioner-Safai Karmachari in CRPF, was removed from service and having failed before the learned Single Judge in getting some indulgence in the matter, he is before us.

4. The explanation offered by the appellant/writ petitioner appears to be that his first wife ran away with some other person and thereafter, she neither come back nor obtained divorce and therefore, he married another girl and due to some disturbances in his family, he had to overstay for more than eight times and stay away from Headquarters. Therefore, the charge of bigamy is concerned, it appears to be little technical but, the explanation offered seems to be reasonable. Though it is proper that order of divorce has to be obtained from the court of law, since the first wife ran away with somebody, the fact remains that there is neither a complaint filed by the first wife against the appellant nor any complaint can be taken cognizance of with regard to the right of the first wife and therefore, there is no question of existence of first marriage during the alleged second marriage and there is no other person aggrieved by such second marriage. In the peculiar facts and circumstances of the case, if we have to look into the veracity of the factual aspects it may not be proper to treat it as bigamy. The other allegation of unauthorised absence from duty for 56 days and overstay of leave on eight occasions in the past appears to be because of the family disturbances and the fact that his life had been in peril, as explained by the appellant.

5. In the circumstances, we have no hesitation in taking a little sympathy in the matter and modifying the punishment of removal from service into one of compulsory retirement. The writ appeal is ordered accordingly modifying of the order passed by the learned Single Judge to the above extent. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1 THE COMMANDANT
OFFICE OF THE COMMANDANT-105
BNRAF/CRPF VELLORE
MAHALINGAPURAM
COIMBATORE-641 111.

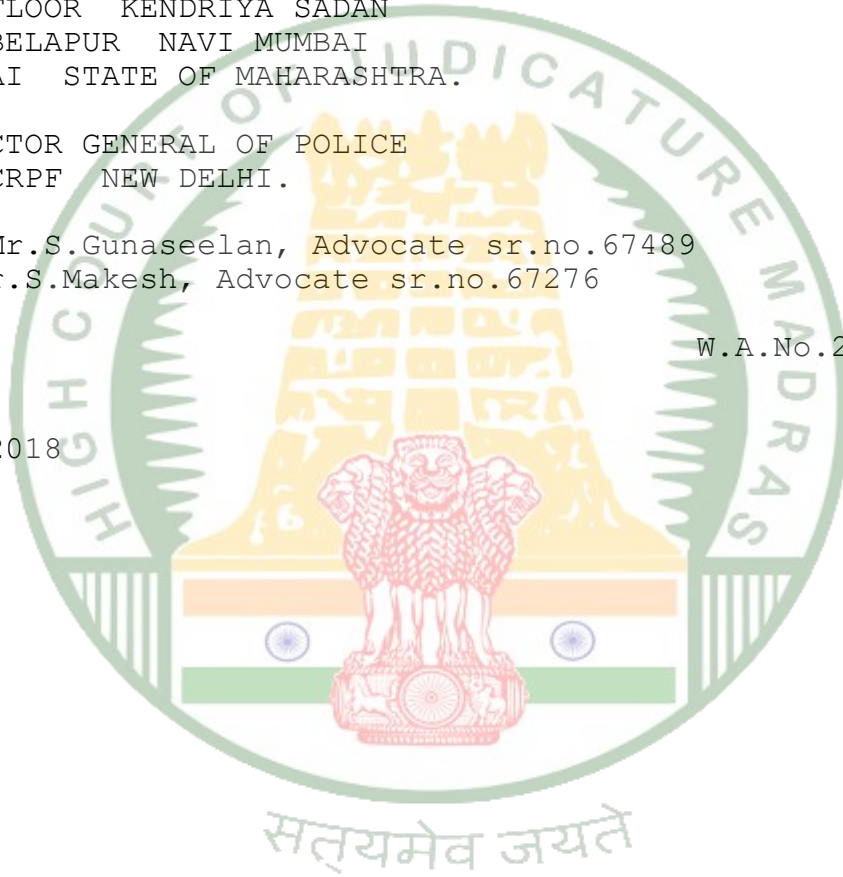
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+1cc to Mr.S.Gunaseelan, Advocate sr.no.67489
+1cc to Mr.S.Makesh, Advocate sr.no.67276

W.A.No.2073 of 2018

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