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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12538/2018**

RAVINDRA KUMAR Petitioner

Through: Mr. Ankur Chhibber and Mr. Bhanu
Gupta, Advocates.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Sanjiv Uniyal, Advocate for R-1
to R-4.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

% **ORDER**
26.11.2018

CM APPL. 48657/2018 (Exemption)

1. Exemption allowed, subject to all just exceptions.

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2. A prayer in this writ petition by the Petitioner who was enrolled on 27th August 2001 as a Constable (GD) in the Central Industrial Security Force (CISF) is that the Respondents should be directed to decide the Revision Petition dated 23rd March 2018.

3. The aforementioned Revision Petition was filed by the Petitioner against the instant order dated 4th January 2018 of the Appellate Authority

upholding the dismissal of the Petitioner from service by an order dated 7th October 2017. The ground on which he was dismissed from service is that he was alleged to have entered into a marriage with a lady Constable when his spouse Ms. Rajbala whom he allegedly married in 1998 was alive and that this act was in violation of Rule 18 of the CISF Rules 2001 and Rule 21 of the Central Civil Service (Conduct) (Rules) 1964. It is further alleged that at the time of his recruitment in 2001 as Constable, he suppressed the above information that he was married to Smt. Rajbala.

4. The main ground of challenge by the Petitioner to his dismissal order is that he was never married to Smt. Rajbala at any point in time. The two factors pointed out by the Petitioner are that Smt. Rajbala withdrew the Criminal complaint filed under Sections 498A and 323 of the Indian Penal Code. Importantly the Petitioner had filed a suit for declaration in which a decree was passed in 16th December 2014 whereby the Civil Judge (JD Muradabad) decreed that the marriage between the Petitioner and Smt. Rajbala was not performed as per rites and rituals at any point in time and therefore Smt. Rajbala was not a legally wedded wife of the Petitioner. This decree of the Civil Court has attained finality.

5. In his Revision Petition, the Petitioner had drawn the attention of the Respondent to the above facts and requested for reconsideration of the dismissal order.

6. While at the time of filing of the writ petition, the Petitioner was not provided with the with the order dismissing Revision Petition, today when

the matter was called the counsel for the Respondent handed over to both the Counsel for the Petitioner as well as to the Court an order dated 6th November 2018 passed by the Director General, CISF rejecting the Petitioner's Revision Petition. The Court notes that in para 5 of the order dated 6th November 2018, the Revisional Authority notes the plea of the Petitioner that he was not married to Smt. Rajbala and that the disciplinary and Appellate Authorities had ignored the civil decree of the Civil Court.

7. Despite noting the above submission, the Revisional Authority appears not to have discussed the said decree dated 16th December 2014 and only relies on an affidavit dated 26th December 2003 of the Petitioner wherein he had apparently accepted that he was married to Smt. Rajbala. Learned counsel for the Respondents is unable to justify how the Appellate Authority could have avoided taking note of the decree of the Civil Court which is binding on it other than saying that it was a an ex-parte decree.

8. The fact of the matter is that there is a decree by a Civil court which does not appear to have been upset by any superior Court. Whether it is an ex-parte order or not is not the concern of the Appellate Authority. The Appellate Authority is bound to take into account the said decree of the Civil Court which is categorical about the fact that the Petitioner was not married to Smt. Rajbala. It is not for the Revisional or Appellate Authority to sit in appeal over the decree of the Civil Court. Unless the said decree is upset in an appeal by the aggrieved party and such order is produced, the Revisional or Appellate Authority has to proceed on the basis that the civil decree is valid.

9. In that view of the matter, the order dated 6th November 2018 passed by the Revisional Authority is hereby set aside. The Revision Petition of the Petitioner is once again directed to be placed before the Revisional Authority which is directed to deal with the specific ground raised by the Petitioner concerning the decree of the Civil Court and take a fresh decision in accordance with law within six weeks from today. The fresh decision, of the Revisional Authority, uninfluenced by the earlier order dated 6th November 2018 will be communicated to the Petitioner not later than one week thereafter. If the petitioner is still aggrieved by the decision of this Court, it is open to him to seek appropriate remedies in accordance with law.

10. The petition is disposed of in the above terms.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

NOVEMBER 26, 2018

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