

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.555 of 2019

Arising Out of PS. Case No.-28 Year-2017 Thana- MAHILA P.S. District- Patna

Neelam Kumari aged about 29 years, Gender-Female, D/o Satendra Narayan Singh, W/o Manoj Kumar Singh Present Resident of Village- Khagaul, P.O. and P.S.- Khagaul, District - Patna, Pin Code- 801105. Permanent Resident of Ramawati Bhawan, Santoshi Maa Path, Sasaram, Rohtas, Bihar.

... .. Petitioner

Versus

1. The Union of India (Defence Ministry) through Commandant - 195.Central Reserve Police Force Barsur, Dantebara (Chatisgarh). (A.O.L.).
2. D.G.P. (C.R.P.F.), Lodi Road, New Delhi.
3. D.I.G. (Welfare) CRPF, Directorate General, New Delhi - 1.
4. I.G.P. (CRPF) North Sector, Hedrabad (Telangana).
5. Police Inspector General, Madhaya Sector, C.R.P.F. Gaumati Nagar, Lucknow (U.P.).
6. Police Deputy Inspector General (Welfare), Directorate General, C.R.P.F. New Delhi. New Delhi.
7. Police Deputy Inspector General, Range Rampur, C.R.P.F., Rampur (W.B.)
8. Principal, R.G. KAR Medical College and Hospital, Kolkatta (W.B.)
9. Sub-Registrar, NIMTALA Burning Ghat, Under The Kolkatta Municipal Corporation (Health Department) 5, S.N. Banerjee Road, Kolkatta- 13 (W.B.)- 13
10. Bibha Kumari, S.H.O. Mahila Thana Patna Gardanibagh, Patna (Bihar).
11. Archana Kumari, S.I. Mahila Thana Patna -cum- Gardanibagh, Patna-cum- I.O. Mahila Thana P.S. Case no. 28/2017.
12. Manoj Kumar Singh Son of Naj Nath Singh (Force No.- 971233398, Rank- CT/GD.). Present Resident of 59/1- Incinerator Road, Balaka Apartment, P.O. and P.S.- Dum-Dum, District - North 24 Pargana (West Bengal). Permanent Resident of Village - Farhada, P.S.- Barhara, District - Bhojpur, (Bihar).

... .. Respondents



Appearance :

For the Petitioner	:	Mr. Navin Kumar, Advocate
For the UOI	:	Mr. S. D. Sanjay, Addl. S. G.
		Mrs. Kanak Verma, CGC
For the State	:	Mr. Iqbal Asifniazi, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 08-04-2019

The petitioner has filed the instant writ petition under Article 226 of the Constitution of India for directing the respondent authorities to take proper action against respondent no. 12, who allegedly made a false death certificate of the petitioner and produced the same before the concerned authorities of Central Reserve Police Force (for short 'CRPF') to suppress the real fact and mislead the office of the Commandant-195 Battalion CRPF-Barsur, Dantebara (Chhatisgarh).

2. It is the case of the petitioner that she was married to respondent no. 12, who is in the rank of CT/GD in the CRPF. He has been posted at 195 Battalion CRPF-Barsur, Dantebara (Chhatisgarh) since 2017. Her husband prepared a forged death certificate and produced the same before the commandant-195 Battalion CRPF seeking permission of second marriage. On the basis of the said death certificate, the concerned authority in the CRPF gave permission to respondent no. 12 to marry another lady. After getting permission, respondent no. 12 solemnized second marriage with another lady in a temple in



Dum-Dum Cantonment West Bengal, Calcutta and the said marriage was also registered on 13.01.2015 under the Hindu Marriage Act.

3. Learned counsel for the petitioner has contended that the permission was obtained by respondent no. 12 for second marriage from the authority of CRPF by playing fraud on the basis of producing the petitioner's forged death certificate. He has further contended that in that view of the matter, a stringent action ought to have been taken by the respondent-authorities when the matter was brought to their notice, but in spite of taking any stringent action against respondent no. 12, a minor punishment was awarded.

4. Per contra, learned counsel appearing for Union of India has submitted that from the pleading of the petitioner itself, it would appear that vide order dated 04.04.2013 passed in Matrimonial Suit No. 1190 of 2012, learned Additional District Judge, FTC-4 at Barackpore, West Bengal allowed an application under Section 13-B of the Hindu Marriage Act, 1955 on mutual consent of the parties. By the said order, the marriage ties in between the petitioner and the respondent no. 12 was dissolved by a decree of divorce. She has contended that from the pleading of the petitioner, it would further appear that pursuant to



the complaint received by the petitioner, a disciplinary proceeding was initiated against respondent no. 12 in which after conducting a proper inquiry, the disciplinary authority found him guilty of the charge and passed an order of punishment of reduction of three stage in the scale of pay for three years from prospective effect with cumulative effect. She has contended that once the act of omission and commission complained of by the petitioner was taken into cognizance by the disciplinary authority and after a disciplinary proceeding, a major punishment has been awarded against respondent no. 12, no relief should be granted to the petitioner in the instant case.

5. I have heard learned counsel for the parties.

6. I find force in the submission of learned counsel for the Union of India. The allegation made by the complainant was taken into consideration by the disciplinary authority. In a properly initiated domestic inquiry, respondent no. 12 was found guilty and has been awarded punishment of reduction of three stage in the scale of pay for three years from prospective effect with cumulative effect. The order passed by the disciplinary authority is in the nature of major punishment.

7. This Court is not sitting in appeal against the order passed by the disciplinary authority. The proportionality of



punishment awarded against the delinquent cannot be examined by this court on the mere asking of the petitioner. Such things are to be examined by an appellate authority prescribed in law in terms of the rules governing the field in a properly instituted proceeding. The order passed by the disciplinary authority cannot be upset by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India on the ground of lesser punishment.

8. The writ petition lacks merit. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.04.2019
Transmission Date	

