

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2362 of 2008**

Ravindra Kumar Singh S/o Shri Ram Parikshan Singh, Aged about 42 years, R/o C/o Tiwari Kiraya Bhandar, Pachpedi Naka, Raipur C.G.

---- Petitioner**Versus**

1. State Of Chhattisgarh And Ors. 1st Battalion, Chhattisgarh Armed Force, Bhilai, District. Durg C.G.
2. Director General Of Police Chhattisgarh State Raipur C.G.
3. Deputy Inspector General Of Police, Chhattisgarh Armed Force, Bhilai, Distt.. Durg C.G.
4. Commandant, 1st Battalion, Chhattisgarh Armed Force, Bhilai, Distt. Durg C.G.

---- Respondents

For Petitioner	:	Ms Meena Shastri With Ms. Ranjana Singh Tomar, Advocates
For State	:	Ms. Sunita Jain, GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/07/2019**

1. The challenge in the present writ petition is to the order Annexure P-2 dated 16.10.2001 whereby the services of the petitioner has been removed. The order under challenge in also Annexure (P-4) & Annexure (P-5) whereby the two appeals that the petitioner had preferred have been rejected by the respondent No. 3 and respondent No. 2 vide their orders dated 12.12.2001 and 29.01.2002 respectively.
2. The facts of the case is that the petitioner was issued with a charge-sheet on 22.05.2001 alleging that the petitioner has committed misconduct under the services rules in as much as the petitioner has

entered into the second marriage when the first wife was alive and there was no legal separation or divorce taken place from the first wife. From the records it does not appear that petitioner has submitted any reply to the charge-sheet. Thereafter, the departmental enquiry was convened in which the petitioner also had participated and subsequently the disciplinary authority passed an order dated 16.10.2001 dismissing the petitioner from service. The petitioner immediately preferred an appeal to the Deputy Inspector General of Police, respondent No. 3 who in turn rejected the same on 12.12.2001. Against the same, the petitioner again preferred the Mercy appeal before respondent No. 2, Director General of Police wherein also the petitioner could not succeed and the same stood rejected vide order dated 29.04.2002 Annexure (P-5) . It is these three orders which are under challenge in the present writ petition.

3. Contention of the petitioner in the instant case is that firstly the act on the part of the petitioner is not something which is serious for terminating him from service. It only is violation of conduct rules and therefore the petitioner could had been given lesser punishment other than that of removal from service. It was further the contention of the petitioner that respondent authorities particularly the disciplinary authority has not properly appreciated the fact that in the departmental enquiry the petitioner had specifically stated that he had been subjected to coercion and pressure by the villagers as also by the complainant which led him to enter into the forceful marriage. Therefore, it cannot be said a marriage with free consent rather it is a case where the marriage has occurred under the compulsion. It was further the contention of the petitioner that even otherwise the

petitioner is tribal and therefore he is under customs entitled for entering into more than one marriage as per the tribal customs and this as such would not amount to a misconduct and therefore also the impugned orders are bad in law.

4. State counsel on the contrary opposing the petition submits that there is a categorical admission by the petitioner at all stages of the disciplinary proceedings of having entered into the marriage with Ku. Kursam laxmi on 12.04.2001. The petitioner also has thereafter tendered in writing of his having entered into marriage willingly with the said lady. It is also the contention of the State counsel that there is also an admission of fact that first wife was alive and there was no official divorce with first wife which would have permitted him to enter into second marriage. Given the facts and circumstances of the case, it cannot be said that the decision of the respondents in any manner to be bad in law or contrary to the rules. It is also the contention of the respondent that petitioner was granted an opportunity of defence before the enquiry officer. In spite of a specific direction being given by the enquiry officer, the petitioner had clearly pleaded that he does not intend to adduce any witnesses other than the documents that he has submitted in the course of enquiry.
5. It would be relevant to refer to the recent decision rendered by the Supreme Court in the case of Khursheed Ahmad Khan V. State of Uttar Pradesh and others, (2015) 8 SCC 439 in similar factual background in paragraph 11 has held as under :-”

“As already mentioned above, there is adequate material on record in support of the charge against the appellant that he performed second marriage during the currency of the first marriage. Admittedly, there is no intimation in any form on record that the appellant had divorced his

first wife. In service record she continued to be mentioned as the wife of the appellant. Moreover, she has given a statement in inquiry proceedings that she continued to be wife of the appellant. The appellant also admitted in inquiry conducted on directions of the Human Rights Commission that his first marriage had continued. In these circumstances, the finding of violation of Conduct Rules cannot be held to be perverse or unreasonable so as to call for interference by this Court. In these circumstances, the High Court was justified in holding that the penalty of removal cannot be held to be shockingly disproportionate to the charge on established judicial parameters.”

6. This Court also in the case of **Chueeru Bajrangi V. State of Chhattisgarh & others in WPS No. 2673/2015 decided on 05.08.2015** under similar set of facts had upheld the disciplinary proceedings on the ground of delinquent employee having entering into the second marriage when the first wife was alive and she was not divorced by the husband.
7. Supreme Court in the past also in the case of **Union of India and another Vs. K.G. Soni, (2006) 6 SCC 794** have applied the same analogy held that such rules created by the State Government cannot be said to be contrary or violative of the Constitution of India and that a person entering into the second marriage would be guilty of having committed a misconduct entailing him for a disciplinary action.
8. On going through the enquiry proceedings, particularly, the statement of the petitioner, it clearly reflects that he has not disputed the fact that on 12.04.2001, he had entered into the second marriage with Kumari Kursam Laxmi. The plain reading of the explanation provided by the petitioner to the disciplinary authority wherein he has candidly accepted the fact of having entered into the second marriage with Ku. Kursam Laxmi. Moreover in his explanation he went a step forward by stating that second marriage has taken place with the consent of

the first wife and second marriage was undertaken on account of compulsion which arose because of the continuous ill health which the first wife was having.

9. Given the said statement by the petitioner before the enquiry officer as also for the explanation and their grounds which the petitioner has raised trying to justify the act would not be sustainable. Moreover, in the departmental enquiry he has specifically made the statement to the enquiry officer that he does not intend to adduce any witness in his defence.
10. Under the circumstances, this Court is of the opinion that decision of the respondents cannot be said to be in contravention to the rules and regulations governing the service conditions of the petitioner. The writ petition thus fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit