

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

CIVIL APPLICATION NO. 11551 OF 2018
IN
REVIEW APPLICATION (ST) NO. 22904 OF 2018
IN
WRIT PETITION NO. 12411 OF 2017

Shahin Banoo Abdul Sattar	...Applicant
Versus	
State of Maharashtra & Ors.	...Respondents

....
Mr D. J. Chaudhari h/f Mr Satej S. Jadhav, Advocate for the applicant
Mrs A. V. Gondhalekar, AGP for respondent/State
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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 11TH JANUARY, 2019

ORAL ORDER:

1. The present review is filed by the applicant claiming to be the second wife of non-applicant No. 4. Non-applicant No. 4 was dismissed from the service after holding departmental Enquiry on the ground that, he has contracted second marriage. This court allowed the writ petition, set aside the order of termination on the ground that there is no evidence of whatsoever nature to conclude that he has performed second marriage. There is no evidence about examination of any person to substantiate the same nor any document in the nature of Nikahnama or otherwise has been brought

before the authorities. Even in the criminal case no finding was given by the Magistrate about the non-applicant No. 4 contracting second marriage. It is on that ground the order passed by the Disciplinary Authority was set aside.

2. Now the applicant approached this Court and submits that, in the year 2016, the present applicant had filed proceedings under the Domestic Violence Act against the present non-applicant No. 4, as the applicant is the second wife of non-applicant No. 4. The learned counsel for the applicant submits that, even the affidavits of witnesses are filed who were present at the time of marriage between the applicant and non-applicant No. 4. The applicant had approached the employer but in view of the order passed by this Court under review, the employer has not entertained the application.

3. Mr Patil, learned counsel appears for non-applicant No. 4 and submits that, this Court on merits had set aside the order passed by the Disciplinary Authority holding that there is no evidence about the second marriage of non-applicant No. 4.

4. In the writ petition, we had only considered the order passed by the Disciplinary Authority based on the evidence brought

during the course of the departmental enquiry and the evidence relied by the Disciplinary Authority.

5. The applicant was not a party in the said writ petition. Our observations in the writ petition were based upon the evidence produced in the enquiry. Certainly we had not heard the present applicant nor our order would be considered against the applicant in whatsoever manner.

6. If the applicant is in position to prove her marriage with the non-applicant No. 4, then it is for the employer to take necessary steps in that regard. Our order would not be an impediment for the applicant to prosecute the proceedings initiated against non-applicant No. 4 on its own merits and our order would be of no assistance to the non-applicant No. 4 in any court or dispute between the applicant and non-applicant No. 4.

7. With the observations as above, writ petition is disposed of.
No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde