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

+ **W.P.(C) 5656/2019**

KANAKA PENTA RAO SEERAPU

..... Petitioner

Through: Mr. P. Sureshan, Adv.

versus

**DIRECTOR GENERAL, CENTRAL INDUSTRIAL SECURITY
FORCE & ORS**

..... Respondent

Through: Ms. Shibhira Parashar and Mr. V.P.S
Charak, Advs. and Inspector Sanjay
Kumar

**CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER
22.05.2019**

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C.M. No. 24810, 24811/2019

Exemptions allowed, subject to all just exceptions. The applications stand disposed of.

W.P.(C) 5656/2019

1. The petitioner has preferred the present writ petition to assail the final order No. 3461 dated 12.04.2017, passed by the Commandant/ CASO, CISF Unit; Order No. 2933, dated 01.08.2017, passed by the DIG/ AP-NZ, CISF; the revisional order No. 11537 dated 28.11.2017 passed by the Inspector General, Airport Sector, New Delhi, whereby the petitioner has been

punished with removal from service on the ground that while having a living spouse, he had entered into second marriage and thereby committed bigamy. A detailed enquiry was held against the petitioner which resulted in passing of the final order dated 12.04.2017 by the Disciplinary Authority. As noticed above, the said order has been affirmed at two subsequent stages.

2. The submission of learned counsel for the petitioner is that there was no evidence of bigamy produced in the enquiry. He submits that no evidence of the actual performance of a Hindu Marriage was laid in the enquiry proceedings. In this regard, counsel for the petitioner has sought to place reliance on *Bhaurao Shankar Lokhande & Anr vs State Of Maharashtra & Anr*, AIR 1965 SC 1564.

3. We have heard learned counsel for the petitioner and perused the impugned orders. The disciplinary authority, while passing the final order dated 12.04.2017 takes note of the fact that the petitioner had admitted to the fact of his entering into a love marriage with Lady Ct/ GD Vasantha Dandu on 16.01.2016. He had also made a request to the competent officer to record the same in the service documents. He had also made a declaration with regard to the details of his family and marriage, in which the name of Lady Ct/ GD Vasantha Dandu was shown by the petitioner as his wife. Moreover, the petitioner, while making his representation to the Commandant, CISF Unit, ASG-Amritsar, inter alia, stated:

“(v) That both I and Vasantha Dandu being ignorant of the Law regulating Hindu Marriage underwent certain rituals in Durgamata Temple in Vijaywada in isolation on 16-01-2017 in order to give our relationship a valid tag.

(vi) That I and Mrs Vasantha Dandu have in performing certain rituals in isolation failed to appreciate the Hindu Marriage Act does not recognize such relationship which has not been

performed or solemnized as per Hindu rites in the presence of independent witnesses and social gathering

(ix) That the entry of her (Vasantha Dandu) name in my service records as my wife thus stands as null and void, in terms with the provisions of Section – 11 of Hindu Marriage Act-1955, Section -24 of Special Marriage Act and Hindu Marriage Registration Rules- 1958 ”

4. The submission of the petitioner, in our view, has no merit for the reason that, firstly, this Court, in Judicial Review, is not called upon to determine questions of facts which have attained finality. We cannot agree with the submission of the learned counsel for the petitioner that there was no material or evidence available in the enquiry proceedings regarding the petitioner's marriage with Lady Ct/ GD Vasantha Dandu.

5. Admission by the delinquent officer of the alleged misconduct is the best evidence and since the petitioner had admitted the said position on record, in our view, there was no need to gather or produce any further evidence in the enquiry proceedings. Reliance placed on ***Bhaurao Shankar Lokhande*** (supra) is misplaced since that was a case under the Penal Code. It is well settled that the standard of proof required in a criminal trial is much higher than that required in departmental proceedings since, in criminal trial, the charge has to be proved beyond all reasonable doubt, whereas, in departmental proceedings, the same has to be proved upon preponderance of probabilities.

6. Not only the petitioner admitted his marriage with Lady Ct/ GD Vasantha Dandu, even the Lady Ct/ GD Vasantha Dandu stated that she got married to the petitioner. Moreover, the petitioner, even in his representation, as aforesaid, admitted to his marriage on 16.01.2016 at

Durgamata Temple, Vijaywada. His submission that it was merely a live-in-relationship between the petitioner and Lady Ct/ GD Vasantha Dandu, cannot be accepted since there would be no question of any rituals being undergone in a temple “ in order to give a relationship a valid tag” i.e. in relation to live-in-relationship.

7. The next submission of the petitioner is that no action has been taken against Lady Ct/ GD Vasantha Dandu since she too had indulged in the same misconduct and she too was married at the time when she entered into a marriage with the petitioner on 16.01.2016.

8. We are not concerned with the said aspect in these proceedings. The petitioner cannot claim discrimination since there is no negative equality.

9. For the aforesaid reasons, we find no merit in the petition.

10. Dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

MAY 22, 2019

N.Khanna