



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2020

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.9972 of 2014

and

M.P.(MD)No.1 of 2014

Sujitha

... Petitioner

Vs.

The Deputy Commissioner of Police,
Armed Reserve,
Chennai.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the respondent in his proceedings in P.R.No.215/P.R.4(1)/2012, dated 11.12.2013 and quash the same as illegal and consequently, direct the second respondent to reinstate the petitioner into service with all other benefits.

For Petitioner : Mr.B.Jameel Arasu

For Respondent : Mr.P.Mahendran
Additional Government Pleader

O R D E R

The order of removal from service issued by the respondent in proceeding dated 11.12.2013 is under challenge in the present writ petition. Further direction is sought for to reinstate the petitioner into service with all service benefits.

2.The petitioner was appointed as woman police constable 31119, 43 PLN, "G" Company, as High Court Security in Chennai City in the Armed Reserve. The respondent received a complaint from the wife of one Mr.Christhudoss stating that the petitioner married her husband Mr.Christhudoss illegally. The first wife of the said Mr.Christhudoss is Tmt.Mary Palsi Thangam. On receipt of the complaint regarding bigamous marriage, the respondent placed the writ petitioner under suspension on the ground that the petitioner had illegally married the said Mr.Christhudoss during the life time



of his first wife Tmt.Mary Palsi Thangam. A charge memo was issued. The writ petitioner submitted her explanation and an enquiry was conducted and based on the proved charges, the petitioner was removed from service.

3.The learned counsel appearing on behalf of the writ petitioner made a submission that the enquiry was not conducted in a proper manner. The petitioner sought time for cross examination of the prosecution witnesses and the same was not granted. Therefore, the enquiry conducted by the competent authority is in violation of the principles of the natural justice. The learned counsel appearing for the writ petitioner further made a submission that the second marriage was solemnized with the consent of the first wife Tmt.Mary Palsi Thangam and the first wife herself was present during the marriage. The petitioner had no knowledge about the first marriage of Mr.Christhudoss and Tmt.Mary Palsi Thangam at the time of her marriage. In view of the fact that the petitioner was ignorant about the first marriage of Mr.Christhudoss, when she married him. Thus, the punishment of removal from service is excessive and the same is to be set aside.

4.The learned Additional Government Pleader disputed the said contentions by stating that the enquiry was conducted by following the procedures and by affording opportunity to the writ petitioner. The witnesses were examined and their statement were recorded. The first wife of Mr.Christhudoss, Tmt.Mary Palsi Thangam was examined as P.W.2. P.W.1 is Mr.Mari Muthu, Assistant Commissioner of Police. P.W.3 is none other the said Christhudoss, who married the writ petitioner as his second wife. The marriage was registered and the registration certificate was also marked as document in the writ proceedings. Thus, the procedures followed by the enquiry officer is in accordance with principles of natural justice and the petitioner was provided plentiful opportunity. The misconduct of bigamous marriage was established against the petitioner mainly on the ground that the marriage of Tmt.Mary Palsi Thangam with Mr.Christhudoss was solemnized at Vanioor at the Holy Trinity Church on 31.01.1990 and a certificate of marriage was issued by the Parish Priest. The Registrar, Sattur has informed in his letter No.253/2011,dated 07.10.2011 that the marriage of Thiru.G.Christhudoss with K.Sujitha was registered as No.15/2011 on 25.03.2011 in the Tamilnadu Marriage Register. The delinquent herself has admitted in her explanation dated 19.07.2013 that she had contracted second marriage with Thiru.G.Christhudoss only on the compulsion of his first wife Tmt.Palsi and with the consent of the elders in the family.

5.The learned counsel appearing for the petitioner brought to the notice of this Court that the said Christhudoss was also working in the police department and no action has been taken against him. However, the said ground raised cannot be considered for the purpose of setting aside the order of punishment imposed against the writ



petitioner.

6. Utmost discipline and devotion to duty in uniformed services and in public services are of paramount importance. Any compromise in discipline would result in disastrous consequences. The police forces are playing a pivotal role in maintaining the orderliness in the Society. Thus, morale and character of the police personnel as well as the public servants are not only important, but necessary for the performance of the public duties in an efficient and effective manner. For example, men of lack of integrity and honesty would not have a moral courage, while dealing with an offence in the Society at large. If a police man commits a misconduct or an offence against a woman, then, he will not be in a position to deal with the crimes against the woman as well as the society at large. That is the reason why, the law makers thought fit to include the bigamous marriage not only an offence in the IPC but also a misconduct in the Police Conduct Rules.

7. The public servants, more specifically, the police personnel are enjoying a special status in the Society. By virtue of the status, they are not only getting certain preferences in the Society but they are vested with the powers of detention and registering cases. When such wide powers are vested with the police officials to fight against the offence in the Society, they are expected to maintain clean service records as well as clean life.

8. Reminding the proverb, "when character is lost, everything is lost", this Court is of the opinion that one cannot brush aside the point that personal life would have an impact in the performance of the official duties of the public servants. There may be difference of opinion in this regard that the 'public life' and the 'private life' cannot be compared with. Whether it is compared or not compared, accepted or not accepted, we like it or do not like it in reality, the fact remains that 'personal life' and 'public life' are interconnected to a large extent and interlinked in many ways, while dealing with the Society at large and at the time of performing the public duties.

9. The integrity and devotion to duty contemplated under Conduct Rules are to be interpreted constructively. When there is a nexus between the 'personal life' and the 'public life', the adverse consequences of not maintaining both in a balanced manner would affect the efficiency level of the public servants. A civil dispute between the parties may not have any relevance regarding the performance of public duties. Public servants are having right to fight against their constitutional rights, civil rights etc.. Thus, establishing the right by the public servants by following the rule of law cannot be compared with certain indisciplined personal life of the public servants. Though matrimonial life appears to be a private affair, the same would have got nexus with the social living of the public servants in the society. When the bigamous marriage



is an offence under the Indian Penal Code as well as the Police Conduct Rules, contracting a second marriage even with the consent of the first wife cannot be a ground to seek exoneration from the Conduct Rules or from the offence of bigamous marriage.

10. **Rule 23** of the Tamilnadu Subordinates Police Officers' Conduct Rules, 1973, reads as follows:-

Rule 23. Bigamous Marriage:-

1.(a) No Police Officer shall enter into a contract marriage with a person having a spouse living and

(b) No Police Officer having a spouse living shall enter into or contract a marriage with any person:

Provided that the Government may permit a Police Officer to enter into or contract any such marriage as is referred to in clause (a) or clause (b) if they are satisfied that,

(I) such marriage is permissible under the personal law applicable to such Police Officer and the other party to the marriage; and

(II) there are other grounds for so doing.

2. No Police Officer shall involve himself in any act involving moral turpitude on his part including any unlawful act, which may cause embarrassment or which may bring discredit to Government.

Rule 24 speaks about **integrity and devotion to duty.**

Rule 24(1) stipulates that every police official shall at all times maintain absolute integrity and devotion to duty.

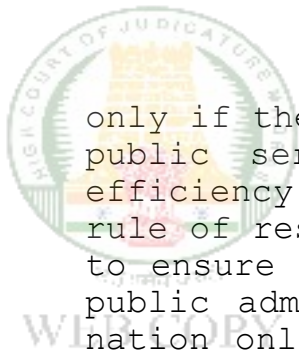
11. The word '**integrity**' is defined in Black's Law Dictionary as follows:-

1. Freedom from corruption or impurity; soundness; purity.

2. Moral soundness; the quality, state or condition of being honest and upright.

12. The definition of the word '**integrity**' is widely interpreted by scholars. So also, honesty and devotion to duty are also interpreted in a wider manner. However, constructive interpretation of these terms with reference to the context, in which, it is to be applied is the point to be considered by the Courts in a case to be decided.

13. Considering the provisions of the Police Conduct Rules as well as the definition of the terms "integrity and devotion to duty" contemplated in Rule 24 of the Conduct Rules, this Court is of an undoubted opinion that men and women of integrity and honesty alone can perform the public duties at the expected level, so as to achieve the constitutional goal of efficient public administration. Corruption, bias, favoritism and nepotism, which all are unconstitutional phenomena, can be eradicated or atleast minimized,

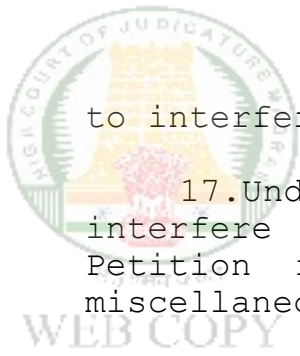


only if the men and women of integrity and honesty are appointed in public services. Even the Constitution of India contemplates efficiency in public administration even, while implementing the rule of reservation. Thus, it is mandatory on the part of the State to ensure efficient public administration. Efficient and effective public administration can be provided to the people of this great nation only if men of integrity and honesty are engaged to perform public services. Therefore, inseparability of the concepts of 'private life' and 'public life' should not be neglected by anyone in order to escape from the clutches of law. One may argue that the personal life is unconnected with the public duties. Such arguments are widely made only on certain personal motives or to achieve selfish goals.

14.The learned Additional Government Pleader appearing on behalf of the respondent reiterated that the petitioner herself admitted the fact regarding the second marriage with the said Mr.Christhudoss whose first wife is alive. When there is a categorical admission by the petitioner herself before the enquiry officer and the marriage between the petitioner and the said Mr.Christhudoss was registered, there is no reason to disbelieve the case of the Department.

15.When the Conduct Rules stipulates that contracting a marriage with the person whose spouse is living, is a misconduct and in the present case, the first wife of the employee Christhudoss lodged a complaint with the competent authorities and the second marriage of the writ petitioner with the said Christhudoss was established beyond any pale of doubt, the punishment of removal imposed cannot be said to be excess or not incommensuration with the gravity of the proved charges.

16.The learned counsel for the petitioner pleaded that the petitioner was not aware of the first marriage. However, before the enquiry proceedings, the said ignorance of fact was not pleaded by the petitioner. This apart, the writ petitioner is a woman police constable working in the High Court Security Wing, Chennai City and the said Christhudoss was also working in the police department at Chennai and further, it is stated that the second marriage was solemnized with the consent of the first wife. The petitioner has stated that the first wife had also participated in the marriage. This being the submission, the intention of the writ petitioner to contract for a second marriage was established beyond any doubt. The second marriage was solemnized intentionally and knowing the fact that it is a misconduct under the Conduct Rules. A police constable cannot say that contracting a second marriage is an offence of bigamous marriage under the Indian Penal Code and Police Conduct Rules. Even ignorance of fact pleaded in this case was also not established. In such circumstances, the punishment of removal from service undoubtedly is an appropriate punishment imposed on the petitioner and there is no other reason whatsoever



to interfere with the quantum of punishment.

17. Under these circumstances, this Court is not inclined to interfere with the orders impugned and consequently, the Writ Petition fails and stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The Deputy Commissioner of Police,
Armed Reserve,
Chennai.

+1 CC to M/s.GP (SR-21451[F] dated 06/11/2020)

W.P. (MD)No.9972 of 2014

04.11.2020

KMK(CO)

AP(24/11/2020) 6P 3C