

19      **13.09.2021**  
rpan      Ct. No.16

**W.P.C.T. No.9 of 2019**  
**Union of India & Others**  
Vs.  
**Sri Rabindra Nath Mohanty**

Mr. Shankar Ranjan Sen  
..... for the Petitioners/ UOI.

Mr. S. K. Datta,  
Mr. Barun Chatterjee  
... for the Respondent.

The subject matter of challenge in the present writ petition is an order dated 16<sup>th</sup> August, 2018 passed by the learned Central Administrative Tribunal, Kolkata Bench, Kolkata in O.A.350/01632/2016 preferred by the applicant/respondent herein.

Shorn of unnecessary details the facts are that the respondent retired from the post of Cabin Master under the Eastern Railway, Sealdah Division on 28<sup>th</sup> February, 2006. On the date of such superannuation, one Smt. Bhagabati Mohanty (in short, Bhagabati) was his legally married wife though a divorce suit was pending amongst them. The said marriage was dissolved by a decree of divorce on 31<sup>st</sup> July, 2006. Subsequent thereto, the respondent married one Sefali Mohanty (in short, Sefali). The said marriage was registered on 30<sup>th</sup> December, 2010 with effect from 22<sup>nd</sup> November, 2006 and thereafter, the respondent submitted a representation on 21<sup>st</sup> February, 2011 to the petitioner no.4 herein with a prayer to record the name of Sefali in the service records.

As the said representation was not considered, the respondent was constrained to approach the learned Tribunal. Upon contested hearing, the original application was disposed of by the impugned order dated 16<sup>th</sup> August, 2018.

Mr. Sen, learned advocate appearing for the petitioners herein submits that Sefali was not the legally married wife of the respondent on the date of his superannuation and the said respondent suppressed materials facts and made erroneous statements in the nomination form. Although the date of the second marriage was after the dissolution of the first marriage, it would be explicit from the nomination exercised by the respondent that in reality he entered into the second marriage during subsistence of the first marriage and as such, he was guilty of bigamy. In view thereof, question of incorporation of Sefali's name in the service record of the respondent, does not occasion.

He further submits that the arguments advanced on behalf of the petitioners herein were not considered by the learned tribunal and the prayer of the respondent ought to have been refused as the said respondent took different stands, once at the time of retirement and again about four years thereafter by submitting a representation on 21<sup>st</sup> February, 2011.

Mr. Datta, learned advocate appearing for the respondent submits that there is no dispute that there was a previous matrimonial relationship between the respondent and Bhagabati. After such marriage with Bhagabati was dissolved by a decree of divorce on 31<sup>st</sup> July, 2006, the respondent married Sefali. Such marriage was duly registered. The genuineness and identity of the said marriage was found to be beyond reasonable doubt upon verification by the petitioners herein, as would be explicit from the verification report dated 2<sup>nd</sup> December, 2014, as annexed at page 74 of the present petition and as such the petitioners cannot deny to incorporate the name of Sefali in the service record of the respondent.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The respondent married Sefali only after his marriage with Bhagabati was dissolved by a decree of divorce. The validity of such marriage, which was duly registered, cannot be disputed by the petitioners herein. Upon scrutinizing the documents on record, the learned tribunal rightly observed that the respondent is not guilty of bigamy.

The learned Tribunal, after dealing with the factual issues, has arrived at specific findings and we do not find

any error, least to say, any patent error of law in the order impugned and in the absence of such error, no interference is called for [See the judgment delivered in the case of *Syed Yakoob –vs- K. S. Radhakrishnan and others*, reported in *AIR 1964 SC 477*]. The impugned order also does not suffer from any jurisdictional error or any manifest injustice warranting interference of this Court.

The writ petition, being WPCT 9 of 2019 is, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

**(Hiranmay Bhattacharyya, J.) (Tapabrata Chakraborty, J.)**