

04 23.8.2021

Ct-16

WPCT 52 of 2021

**Union of India & Ors.
Vs.
Naran Rout**

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Mr. Kushi Prasun Chatterjee
Mr. Aveek Biswas
.... For the Petitioners

Mr. Sanjib Kumar Mukhopadhyay
.... For the Respondent

The impugned order passed by the Central Administrative Tribunal, Calcutta Bench, Kolkata in Original Application No. 350/00925/2018 on 16th March, 2021 in connection with an application filed by the private respondent challenging the order dated 18th May, 2018 passed by the petitioner no. 2, F.A & C.A.O, Chittaranjan Locomotive Works, District-Paschim Burdwan, imposing major penalty.

The disciplinary proceeding was initiated against the private respondent on the basis of a complaint made by one Susma Rout alleging bigamy of the private respondent. From the enquiry report it appears that several letters were issued directing Naran Rout to appear but Shri Rout did not appear before the Enquiry Officer. There was also a publication in the newspaper wherein it was mentioned that in the event Shri Rout failed to appear an ex-parte decision would be taken against him. It further appears that Ms. Susma Ram appeared as a witness before the Enquiry Officer. She stated that Naran Rout admitted before the police officials at Chittaranjan Police Station that he is already married to Smt. Sunanda Rout and he has a

daughter by her. The disciplinary authority after taking into consideration the deposition of nine witnesses in addition to the deposition of Ms. Susma Ram held that it has been established that Naran Rout knowingly contracted a marriage with Ms. Susma Ram while already having a legally married wife and a nine year old child. Considering the gravity of offences committed by Naran Rout the disciplinary authority passed an order of dismissal of Shri Rout from Railway Service with immediate effect. The order of the disciplinary authority was, however, affirmed by the appellate authority. There is nothing on record to show that the private respondent did not marry Susma during the subsistence of the first marriage, when the charge of bigamy was raised. The marriage certificate was produced before the enquiry officer.

Rule 21 of the Railway Services Conduct Rules, 1966 considers bigamy as a misconduct which may result in dismissal from service.

The learned counsel appearing for the petitioners has drawn our attention to a document at page 25 of the writ petition to show that there is an observation made by the Regional Registrar General of Marriage that the marriage between Naran Rout and Susma Kumari Ram solemnised by Smt. Ratna Mondal, Marriage Officer, is defective, as it is a violation of Section 7(2) of the Special Marriage Act, 1954. However, this document does not prove that the private respondent did not have the intention to marry Susma Kumari Ram. The intention attempt to marry Susma Kumari Ram and their cohabitation are not being dispelled by the documents shown at page 25 of the writ petition.

The evidence in the enquiry proceeding

proves otherwise. On such consideration, we do not find any reason to interfere with the order passed by the appellate authority. We feel that the Tribunal was misdirected its mind relying upon the order passed by the Criminal Court and disregarding the other evidences on record, wherefrom it is established that the private respondent intended to marry Susma Kumari Ram and in fact, they are living as husband and wife.

In view of the above, the order of the Tribunal is set aside and the order of the appellate authority is sustained.

WPCT 52 of 2021 is thus disposed of without any order as to costs.

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

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)

