

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11570 of 2015

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Sudhir Kumar son of Sri Ajay Kumar Singh resident of Village Katar, P.O. Hasan Bazar, P.S. Piro Dist Bhojpur.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary of Home Affairs, New Delhi. (Deleted vide order dated 07/12/2023)
2. Director General, Indo Tibbat Boarder Police Force, New Delhi.
3. Inspector General Central Frontier Indo Tibbat Boarder Police Force, Trilochan Nagar, Trilanga, Shahpura, Bhopal, Madhya Pradesh.
4. D.I.G., Regional Headquarter, Indo Tibbat Boarder Police Force, Patna.
5. Deputy Senani (Office) cum Senior Administrative Officer, Establishment Directorate, Indo Tibbat Police Force, New Delhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Niwas Prasad, Advocate
	:	Mr. Ram Hriday Prasad, Advocate
For the Union of India	:	Mr. Ram Anurag Singh, CGC.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 12-12-2023

Heard Mr. Ram Niwas Prasad, learned counsel appearing for the petitioner and Mr. Ram Anurag Singh, learned Central Govt. Counsel appearing for the Union of India.

2. The present writ application has been filed for setting aside the order of dismissal dated 27.02.2014 passed by D.I.G., Indo Tibbat Police Force, Regional, Headquarter, Patna, order dated 07.05.2014 passed by the I.G., Central Frontier, Indo Tibbat Police Force, Bhopal and order dated 27.10.2014 passed by Deputy Senani (Office) Senior Administrative Officer, Establishment Directorate, Indo Tibbat Police Force, New Delhi



whereby and whereunder the petitioner has been dismissed from service vide order dated 27.02.2014 and appeal of the petitioner was rejected vide order dated 07.05.2014 and the revision filed by the petitioner against the order dated 07.05.2014 which was also rejected vide order dated 27.10.2014.

3. The petitioner was initially appointed as Constable/Pioneer in Indo Tibbat Police Force on 25.01.2001 and was posted in Regional Headquarter, Patna. On 23.01.2014, the D.I.G., Regional Headquarter, Patna issued a show cause to the petitioner on the charge of performing second marriage during the lifetime of his first wife. The petitioner replied to the show cause dated 21.02.2014 stating therein that he has performed the second marriage with consent of his 1st wife. The D.I.G., Regional Headquarter, Patna without considering the reply to the show cause of the petitioner has been pleased to dismiss the petitioner from the post in question on 27.02.2014. Thereafter, the petitioner has filed an appeal before the I.G., Central Frontier, Indo Tibbat Police Force, Bhopal which was rejected vide order dated 07.05.2014 by I.G., Central Frontier, Indo Tibbat Police Force, Bhopal. Thereafter, the petitioner has filed a revision before the Director General, Indo Tibbat Boarder Police Force, New Delhi



and which was rejected by the Director General, Indo Tibbat Boarder Police Force, New Delhi vide order dated 27.10.2014.

4. Learned counsel for the petitioner submits that the authorities have not considered the show cause which was filed by the petitioner in which the petitioner has categorically stated that he has performed the second marriage with the consent of his first wife and the punishment is hard and disproportionate to the offence but the respondents are not considered the reply to the petitioner and pass the order of dismissal from service and due to punishment of dismissal, the petitioner has been debarred from his retirement benefits in Rule 10 (2) of Indo Tibbat Police Force Compulsory Retirement may be appropriate punishment in the case of the petitioner.

5. Mr. Ram Anurag Singh, learned Central Govt. Counsel appearing for the Union of India submits that the restriction regarding second marriage, which reads as follows:

“21. Restriction regarding marriage

(1) No Government servant shall enter into, or contract, a marriage with a person having a spouse living; and



(2) No Government servant having a spouse living, shall enter into, or contract, a marriage with any person:

Provided that the Central Government may permit a Government servant to enter into, or contract, any such marriage as is referred to in Clause (1) or Clause (2), if it is satisfied that-

(a) such marriage is permissible the personal law applicable to such Government servant and the other party to the marriage; and

(b) there are other grounds for so doing.

(3)A Government servant who has married or marries a person other than of Indian nationality shall forthwith intimate the fact to the Government.

CHAPTER-III RECRUITMENT *which also reads as follows:*

10. Ineligibility.-(1)No person, who has more than one wife living or who having a spouse living marries in any case in which such marriage is void by reason of its taking place during the life time of such spouse, shall be eligible for appointment, enrolment, or employment in the Force.



(2)Any person subject to the Act, who contracts or enters into a second marriage during the life time of his first spouse shall render himself ineligible for retention in service and may be dismissed, removed or retired from service on ground of unsuitability.”

6. In the present case, the petitioner has not informed or obtained permission from the authority concerned with regard to second marriage, and from a bare perusal of the reply of the petitioner which is Annexure-3 of the writ application, it appears that the petitioner has submitted ambitious explanation and the same was rejected by the competent authority and according to Rule 10(2) of Indo Tibbat Police Force, 1994 the petitioner has been terminated from the service vide SHQ (Patna) letter No.1145-60 dated 27.02.2014. Thereafter, the petitioner has filed an appeal and the same was also rejected by the competent authority and as per Rule 10(2) of ITBPF Rule, 1994, any person subject to the Act, who contracts or enters into a second marriage during the lifetime of his first spouse shall render himself ineligible for detention in service and may be dismissed, removed or retired from service on ground of unsuitability. Further submits that there is no infirmity in the proceeding and as per Rule, the authority has rightly dismissed the petitioner from his service.



7. In view of aforesaid that the authority has rightly dismissed the petitioner from the post in question after giving proper opportunity to the petitioner in accordance with law and the appeal as well as revision of the petitioner have been dismissed by the competent authority. No infirmity in the orders dated 27.02.2014,07.05.2014 and 27.10.2014 respectively.

8. There is no merit in this writ application. Accordingly, it is dismissed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.12.2023
Transmission Date	19.12.2023

