



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

WEB COPY

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.920 of 2020
and
C.M.P.No.11348 of 2020

B. Haniffa

... Appellant

Vs.

1. The Commandant
CISF Unit,
SCCL, Singareni,
Bellampalli,
Andhra Pradesh.

2. Deputy Inspector General,
Central Industrial Security Force,
South Zone Head Quarters,
Rajaji Bhavan, Rajaji Nagar,
Chennai – 600 090.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed by the Learned Judge in W.P.No. 28792 of 2010 dated 09.08.2019.



For Appellants : Mrs.R.Meenakshi
For R1 & R2 : Mr.K.Subbu Ranga Bharathi
Central Government Standing Counsel

J U D G M E N T

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

The writ petitioner is the appellant before us. The appellant was holding the post of Constable in Central Industrial Security Force Unit. Departmental disciplinary proceedings were initiated against the appellant under Rule 21(2) of the Central Civil Services (Conduct Rules) 1964 and under Section 18(b) of the CISF Rules, 2001.

2. The charge against the appellant was that having a spouse living by name Smt.Mobin Taj got 2nd marriage with another lady named Mrs.H.Reshma without obtaining divorce with his first wife, which is a misconduct. The article of charge -II indicates that gross indiscipline and misconduct on the part of the appellant that applied for LTC for the block year 2008 – 2009 for self and for his wife namely Mobin Taj on 21.08.2009, when he is living with 2nd wife Mrs.H.Reshma. The part on the Official to



W.A.No.920 of 2020

suppress the fact from the department is also an offence. Thus, the 2nd charge was framed. The charge memo contains statement of imputation of gross indiscipline or misconduct in support of the articles of charges. List of documents are provided and the list of witnesses are also furnished. Thus, we do not find any infirmity in respect of the charge memorandum issued to the appellant by the respondents.

3. The appellant submitted his explanation denying the charges. Not satisfied with the explanation, the disciplinary Authority appointed an Enquiry Officer, who inturn conducted an enquiry by affording opportunity to all the parties. The appellant participated in the process of enquiry and defended his case by availing the opportunities provided. The Enquiry Officer submitted his final Report holding that the charges are held proved. The proved charges are accepted by the Disciplinary Authority. The copy of the Enquiry Report was communicated to the delinquent staff. He had submitted his further explanations on the findings of the Enquiry Officer. Thereafter, the final order in the departmental disciplinary proceedings was issued by the Disciplinary Authority imposing the penalty of dismissal from service in proceedings dated 02.09.2010. The appellant preferred an appeal before the



W.A.No.920 of 2020

Appellate Authority, which was rejected. Thereafter, the writ petition came to be instituted. The writ court considered all the factual matrix and found that the appellant had not established any case for interference. Thus, the writ petition was dismissed and consequently, the present writ appeal came to be instituted.

4. Mrs.R.Meenakshi, learned Counsel appearing on behalf of the appellant would contend that the 1st wife of the appellant deserted him and she is not living with the appellant for long time. Therefore, the appellant has contracted for 2nd marriage. The appellant had no intention to have two wives and in view of the desertion by first wife, he has chosen to marry Mrs.H.Reshma. Thus, the mitigating circumstances resulted in contracting 2nd marriage ought to have been considered by the competent Authorities and the writ court. It is further contended that the Authorities have not even considered for grant of compassionate allowance in the case of appellant. In the event of dismissal from service, the competent Authorities ought to have considered grant of compassionate allowance under Rule 41 of CCS Pension Rules. For all these reasons the writ appeal is to be considered.

5. Mr.K.Subbu Ranga Bharathi, the learned Central Government



W.A.No.920 of 2020

Standing Counsel appearing on behalf of the respondents would oppose by stating that proved misconducts are grave in nature. During the life time of the first wife, the appellant has contracted for 2nd marriage and married Mrs.H.Reshma as his second wife. Therefore, departmental disciplinary proceedings were initiated. The appellant defended his case and the Enquiry Officer found that the charges are proved. Based on the proved charges, penalty of dismissal from service was imposed. Thus, there is no infirmity and the writ appeal is to be dismissed.

6. We have considered the rival submissions made on behalf of the parties to the *lis* on hand.

7. Two articles of charges were framed against the appellant. One relating to contracting marriage with another woman namely Mrs.H.Reshma without obtaining a valid divorce from competent Court of law from his 1st wife. Second charge is about availing of LTC by submitting false informations. Both the charges have been proved before the Enquiry Officer. The proved charges are found to be grave in nature. A public servant during the subsistence of first marriage cannot contract for 2nd marriage with another



W.A.No.920 of 2020

person. In the present case, the 2nd marriage between the appellant and Mrs.H.Reshma was established before the Enquiry Proceedings and the Enquiry Officer arrived at a conclusion that the charges against the appellant have held proved.

8. We do not find any reason to interfere with the findings in this regard, since findings are supported with documents and evidences. The complaint itself has been given by the 1st wife of the appellant. Disciplinary Authority has considered all the aspects elaborately. CISF is a uniformed services and maintenance of utmost discipline is of paramount importance. Therefore, the uniformed service forces are expected to maintain high standard of discipline, while performing duty and outside. Compromising discipline in uniformed force will result in an anomalous situation, since they are maintaining orderliness in the society. Thus, the courts are not expected to take any lenient view in such disciplinary matters, more specifically in uniformed services.

9. In the present case, the Disciplinary Authority and the Appellate



W.A.No.920 of 2020

Authority confirmed the punishment of dismissal from service. The writ court elaborately considered the facts and circumstances, and formed an opinion that the appellant has not raised any acceptable ground for interfering with the quantum of penalty.

10. The power of Judicial Review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which a decision has been taken by the competent Authority in consonance with the Statutes and Rules in force, but not the decision itself. Therefore, re-appreciation of evidences in disciplinary matters by the High Court in the writ proceedings are impermissible, except in exceptional cases, where gross injustice has been noticed. Therefore, re appreciation of evidence is beyond the scope and High Court is not expected to sit as an Appellate Authority in respect of the concluded facts in disciplinary matters.

11. In the present case, the Rules of natural justice has been complied with. The Enquiry has been conducted based on the governing principles and the Rules in force. The quantum of punishment cannot be construed as disproportionate, since the proved charges are grave in nature.



W.A.No.920 of 2020

For all these reason, we are inclined to confirm the orders passed by the Disciplinary Authority, Appellate Authority and the Writ Court.

12. Consequently, the writ appeal stands **dismissed**. No costs.

Consequently, connected miscellaneous petition is closed.

[S.M.S., J.] [C.K., J.]
21.06.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda

To

1. The Commandant,
CISF Unit,
SCCL, Singareni,
Bellampalli,
Andhra Pradesh.
2. Deputy Inspector General,
Central Industrial Security Force,
South Zone Head Quarters,
Rajaji Bhavan, Rajaji Nagar,
Chennai – 600 090.

S.M.SUBRAMANIAM, J.
AND



WEB COPY



W.A.No.920 of 2020

C.KUMARAPPAN, J.

veda

Judgment in
W.A.No.920 of 2020

21.06.2024