

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3664 of 2023

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Md. Manover Hussain @ Md. Manover Hasan Son of Md. Manir Resident of
Village- Lalmania, P.S.- Laukaha (Lalmania), District- Madhubani.

... .. Petitioner/s

Versus

1. The Union of India through Secretary Ministry of Home Affairs,
Government of India.
2. The Secretary, Ministry of Home Affairs, Government of India, New Delhi.
3. The Commandant, Office of the Commandant, 71st Bn SSB, Motihari,
Sashastra Seema Bal, Dist.- East Champaran (Bihar), Pin- 845429.
4. The Assistant Commandant, 71st Bn, SSB, Motihari, Bihar.
5. The Dy. Inspector General, Sector Headquarter, SSB, Bettiah, Camp at 44
Bn, SSB, Narkatiaganj, West Champaran, Bihar.
6. Smt. Kainat Hashmi, Wife of Md. Manover Husain, D/o Md. Hashim
Resident of Mohalla Paharpur, P.S.- Gardanibagh, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rohan Verma
For the Respondent/s	:	Mr. Additional Solicitor General
For the U.O.I.	:	Mr. Bindhyachal Rai

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 21-01-2025

1. Heard learned counsel appearing for the parties.
2. This petition has been preferred by the petitioner

seeking following reliefs:

*“i. For necessary direction upon the
respondent authorities to quash the
order dated 01.02.2022 passed by the
Commandant, 71st Bn, SSB, Motihari,
District-East Champaran, Bihar
issued vide Letter No. 1064 by which
the petitioner has been dismissed from*



service with immediate effect and as such has been accordingly struck off from the strength of the 71st Bn, SSB, Motihari (Bihar) from today i.e. 01.02.2022.

ii. For quashing of the order dated 04.05.2022 issued by DIG, SHQ, SSB, Bettiah (respondent no.5) issued vide order no. 2993-99 by which the appeal preferred by the petitioner against the order of dismissal dated 01.02.2022 has been dismissed and the order of dismissal dated 01.02.2022 vide no. 1064 has been upheld.

iii. For a direction to the respondents to reinstate the petitioner forthwith with effect from the date he was dismissed with all back wages.

iv. For a direction to the respondents to grant all consequential relief to the petitioner to which he may be found to be entitled to.

v. For any other direction, which your Lordships may deem fit and proper in the facts and circumstance of the case.”

3. The fact of this case is that the petitioner was appointed in Sashastra Seema Bal (in short SSB) on 10.02.2014 at 63rd Bn, SSB, Barasat and remained posted there from



10.02.2014 to 16.09.2014. Thereafter, on 16.11.2020, he joined at 71st Bn, SSB, Motihari on transfer. The petitioner while being posted at 61st Bn, SSB, Bhairabkunda (Assam) got married to one Smt. Kainat Hashmi i.e. respondent/o.p. No. 6 in this petition on 29.03.2017. At that time, petitioner was posted at Bhairabkunda (Assam) where keeping family was not permissible, therefore, the wife of the petitioner was requested by him to stay in his village home. She denied the same and subsequently, she filed a Complaint Case No. 3141 of 2017 in the Court of learned Chief Judicial Magistrate, Patna for the alleged offences punishable under Sections 498(A), 379, 504, 506 read with Section 34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act. Thereafter, cognizance was taken by the Chief Judicial Magistrate on 30.11.2017. Application for grant of anticipatory bail was moved by the petitioner before this Court wherein the respondent/o.p. no.6 i.e. Kainat Hashmi was also made a party. During course of hearing, in the anticipatory bail application, the respondent/o.p. no. 6 made her submission that she is ready for one time settlement as it is not possible for her to reside in the village of the petitioner and for that she is ready to file mutual divorce application. On the basis of undertaking given by the respondent/o.p. no. 6, the



application for grant of anticipatory bail was allowed vide order dated 30.07.2017 by this Court. However, the respondent no. 6 did not co-operate to file an application for grant of divorce on the ground of mutual consent. Thereafter, the petitioner filed divorce case on 10.04.2020 being M.M. Case No. 125 of 2020 before the Family Court, Madhubani. Meanwhile, the respondent no. 6 made several complaints to the higher officials of the petitioner alleging therein that petitioner has got his second marriage without getting any divorce from her and prayed for dismissal of the petitioner from his services on this ground. On the basis of complaints made by the respondent no. 6, the departmental enquiry was conducted by the enquiry officer, which was concluded on 01.12.2021. The enquiry report i.e. Annexure-8 was also submitted by the inquiry officer on 01.12.2021. The enquiry officer categorically opined that it is not clear that petitioner has got his second marriage or not. However, on the basis of Letter no. 479 dated 07.10.2021 issued by the In-charge, Medical Officer, Primary Health Centre, Khutauna, it was opined by him that it appears that the petitioner herein got his second marriage with one Smt. Masum Begum and recommended against the petitioner. On the basis of said, show cause notice was issued to the petitioner, vide



Annexure-10. Reply to the show cause was given by the petitioner vide Annexure-11, wherein he categorically stated that he does not get his second marriage with any lady. However, he admitted that there was a live in relationship of the petitioner with Masum Begum and out of their relationship, one boy is also born. On the basis of above reply made by the petitioner, the impugned order dated 01.02.2022 i.e. Annexure-12 has been passed by the authority invoking the provisions of Section 11(2) of SSB Act, 2007 read with Rule 11(2) of SSB Rules 2009 and Rule 26 of SSB Rules, 2009 and petitioner has been dismissed from his services and hence, this petition.

4. Learned counsel for the petitioner would submit that order of dismissal is bad in law as well as on facts. From the opinion given by the inquiry officer it is clear that inquiry officer himself opined that it is not clear that the petitioner herein got his second marriage or not. He further opined that it is not clear that petitioner herein got his second marriage or not. However, the enquiry officer only on the basis of Letter no. 479 dated 07.10.2021 issued by the In-charge, Medical Officer, Primary Health Centre Khutauna opined that it appears that petitioner got his second marriage with one Masum Begum. In spite of that, the disciplinary authority erroneously arrived at the



conclusion that petitioner has got second marriage with Masum Begum and passed the impugned order i.e. dismissal from the service of the petitioner, which is perverse. He further submits that the appellate authority also did not consider this aspect and passed the order dated 04.05.2022, Annexure-14, mechanically.

5. Learned counsel for the respondents opposes the argument raised by the counsel and submits that from the Letter No. 479 issued by the In-charge, Medical Officer, Primary Health Centre, Khutauna, it is well established that on 07.10.2021, one male child was born by one Masum Begum, wife of Manover Hussain (petitioner herein). This fact has also been admitted by the petitioner himself in his reply of show cause i.e. Annexure-11. Therefore, it is well established that petitioner got his second marriage with one Masum Begum. Thus, the inquiry officer, disciplinary authority as well as appellate authority rightly found that the petitioner has got his second marriage.

6. Heard learned counsel appearing for both the parties and perused the documents annexed with the petition as well as counter affidavit filed by the respondents.

7. Perusal of the enquiry report clearly shows that the enquiry officer himself was not sure whether the petitioner



has got his second marriage or not. However, only on the basis of Letter no. 479 dated 07.10.2021 issued by the In-charge, Medical Officer, Primary Health Centre, Khutauna, has arrived at the conclusion that it appears that petitioner has got his second marriage with one Masum Begum. Except Letter no. 479 dated 07.10.2021, no evidence was produced before the inquiry officer, which established the fact of second marriage of the petitioner. On perusal of reply to the show cause i.e. Annexure-11, submitted by the petitioner also shows that he has categorically mentioned that since the respondent/o.p. no. 6 has refused to live with him, therefore he live in relationship with one Masum Begum and during this relationship, one male child was born. However, the disciplinary authority while imposing the penalty did not consider the above, nor the appellate authority has considered this aspect.

8. Merely on the basis of the Letter no. 479 dated 07.10.2021 issued by the In-charge, Medical Officer, Primary Health Centre, Khutauna, it cannot be said that Masum Begum is the second married wife of the petitioner. At most, it can be said that petitioner is the only biological father of the boy who is born by Masum Begum as mentioned in the Letter no. 479 dated 07.10.2021 issued by the In-Charge, Medical Officer, Primary



Health Centre, Khutauna. Apart from that letter, there is nothing available on record which shows that the petitioner has got his second marriage with one Masum Begum. Therefore, both the impugned order of dismissal dated 01.02.2022, i.e. Annexure-12, and the order of the Appellate Authority dated 04.05.2022, i.e. Annexure-14, are liable to be quashed.

9. Accordingly, both the orders are hereby quashed. The respondents are directed to reinstate the services of the petitioner forthwith with effect from the date he was dismissed. It is further directed that petitioner is also entitled for consequential benefits to which he may be found to be entitled for.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.01.2025
Transmission Date	NA

