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CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

AS

Original Application No: 349 of 1989(L)

Kaj Kumar Singh Bhadoria Applicants.

Versus

Union of India & others Respondents.

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K.Ubayya, Member-A

(By Hon'ble Mr. K.Ubayya, Member-A)

This application has been filed for quashing the order of compulsory retirement dated 26.4.1989 (Annexure-1) with a prayer that the respondents be directed to retain the applicant on the post of Investigator in the Directorate of Census Operations, U.P. Lucknow and to pay him salary and allowances. There is also a prayer not to enforce Rule 21 of C.C.S. (Conduct Rules) and to declare the said rule as ultravires of Section 194 of I.P.C. and beyond the rule making power of the President under Article 309. The applicant was appointed in the Census department in the year, 1971 as Statistical Assistant. In due course he was promoted as Tabulation Assistant and thereafter in 1985 he was appointed by transfer as Investigator. There was a complaint about the second marriage with one Sheela Srivastava who was also working in the same Census department. The matter was enquired into through district Administration. As the enquiry revealed that the applicant had married in the year, 1960 one Dr. Padi Devi daughter of Shri Kanchi Singh, village Nagla Chanar, Bharthana District Etawah in 1960. Charge sheet dated 25.4.1983 was issued. There was an enquiry and the Enquiry Officer reported that the charge is established and the disciplinary authority passed the impugned order.

2. The impugned order is assailed on the ground that the order is arbitrary, illegal and against the evidence on record and that in the year, 1960 he was only 14 years of age and as such the marriage is nullity in the eye of law as he was only minor at that time and that Rule 21 of C.C.S. Rule will apply only when there are two valid marriages and as such the complaint should have been from his first wife but she had no ~~offence~~ and as such the punishment order is bad in law. The respondents have contested the case and it is pointed out that the applicant has asked for certain documents without accepting or denying the charges. It is so stated that merely because there is no complaint from the first wife that does not justify second marriage. The relevant fact is that when he contracted second marriage his first wife was living and that was in violation of Rule 21(2) of C.C.S (Conduct) Rules, 1964. It is also stated that the age of the applicant at the time of marriage is not relevant as it was duly solemnised in accordance with the customary rights and ceremonies. The marriage can be annulled with the consent of the spouse, but, in this case no such annulment did take place. It is also pointed out that the applicant has committed his second marriage and his first wife was living.

3. We have heard the counsels of the parties. The learned counsel contended that the first marriage was nullity in the law and therefore it cannot be the basis for passing the penal order.

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This was countered by the learned counsel for the respondents; according to him the marriage was solemnised according to custom and it was not annulled. While contracting the second marriage the applicant concealed the fact of his earlier marriage. We have considered these contentions. The applicant being a Government servant is governed by Conduct Rules. The fact of his first marriage is not denied. While his first wife was alive, he contracted a second marriage and this is in violation of Rule 21 of C.C.S. (Conduct) Rules. In these circumstances, it cannot be said that the action of the disciplinary Authority is questionable. It was within the domain of the disciplinary Authority to levy the punishment for misconduct, as the charge against the applicant was well established. We do not see any grounds for interference. The case is without merit and accordingly it is dismissed, with no order as to costs.

B. Rukhsar
Member-A

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Vice-Chairman

Lucknow Dated: 3/5/93
(jw)