

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: 21/11/94

Title

O.A. No. 349

1989

Name of Parties.

R. K. Singh Bhadaria

Applicant

Union of gnowa & Ors

versus

Respondents.

PART-A

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Certified that no further action is required. The case is fit for consignment to record mem.

Section Officer

Court Officer

Incharge

Signature of Dealing Assistant.

(RN)
Chetkam
06-1-12

Rgn
SOL

21/11/94

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

AS

Original Application No: 349 of 1989(L)

Raj Kumar Singh Bhadoria Applicants.

Versus

Union of India & others Respondents.

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

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

(By Hon'ble Mr. K.Obayya, 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 494 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 Droupdi Devi daughter of Shri Kanchand Singh, village Nagla Chanor, Bhathana 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.

AT

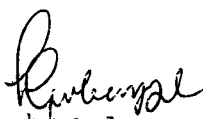
2. The impugned order is assailed on the ground that the order is arbitrary, illegal and against the evidence on record and that in the year, 1960 he was only 14 years of age and as such the marriage is nullity in the eye of law as he was only minor at that time and that Rule 21 of C.C.S. Rule will apply only when there are two valid marriages and as such the complaint should have been from his first wife but she had no ~~objection~~ ^{objection} 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 also 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.

6

A7

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.


Member-A


Vice-Chairman

Lucknow Dated: 3/5/93 -
(jw)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Date
D:

20-12-85

Registration No. 349 of 1989 (C)

V.D. L. A

APPLICANT(S) R K Singh Bhadani

RESPONDENT(S) U.C.L.

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ?
2. a) Is the application in the prescribed form ?
b) Is the application in paper book form ?
c) Have six complete sets of the application been filed ?
3. a) Is the appeal in time ?
b) If not, by how many days it is beyond time ?
c) Has sufficient case for not making the application in time, been filed ?
4. Has the document of authorisation/ Vakalatnama been filed ?
5. Is the application accompanied by B.D./Postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed ?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?
c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents been filed and paging done properly ?
9. Have the chronological details of representation made and the out come of such representation been indicated in the application ?
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

No

Particulars to be Examined

Endorsement as to result of examination

- Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
- a) Identical With the Original ?
- b) Defective ?
- c) Wanting in Annexures
- Nos. _____ pages Nos _____ ?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 6 of the application ?
- a) Concise ?
- b) Under distinct heads ?
- c) Numbered consecutively ?
- d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

Yes

Yes

Yes

Yes

Yes

Yes

Yes

No

Yes

A1

andshy

Serial
number
of
order
and date

Brief Order, Mentioning Reference
if necessary

How complied
with and
date of
compliance

2.1.90

Hon'ble Justice K. Nath, V.C.

Hon'ble Mr. K. Obayya, A.M.

Shri Amit Bose counsel for the applicant
heard.

ADMIT.

Dr. Dinesh Chandra takes notice on behalf of
opposite parties 1 to 3. Copies meant for
opposite parties 1 to 3 be handed over to
Dr. Dinesh Chandra. Issue notice to opposite
parties No.4. Opposite parties are directed
to file counter within 3 weeks to which the
applicant may file rejoinder within one
week thereafter. List the case for orders
on 27.2.1990.

A.M.

V.C.

rm/

27.2.90

Hon. Justice K. Nath V.C.
Hon. K.J. Raman, A.M.

The notice issued to respondent
no. 4 is presumed served; no one appears
on his behalf. The case will proceed
ex parte against him.

Dr. D. Chandra, appearing
on behalf of respondents no. 1 to 3,
prays for and is allowed four weeks
time to file a counter affidavit.
Rejoinder affidavit, if any, may be
filed within two weeks thereafter.

List for further orders
on 18.4.90.

[Signature]
A.M.

[Signature]
V.C.

Dinesh

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oil
dictated
S.
S.

OR

Not
in use
4 in 511

on
D. C.
in
of
see

D.
K.
R.

(2)

O.A. 349/89

13.8.91
D.R.

A3

Both the parties
are absent today.

Applicant is directed
to file Reply
by 1/11/91.

1.11.91
D.R.

Both the parties are
absent today. Applicant
to file Reply by
23/1/92.

23.1.92
D.R.

Both the parties
are present. Reply
Affidavit has been
filed today. Case
is listed for hearing
on 24/2/92 before
the Hon. Bench.

File

24.2.92

No sitting adj to 8.4.92

CR
C.A, R.A. have
been exchanged
S.F. Jt.
26-8-92

27-8-92 Case not reached,
adj to 29.8.92

20/12/09

Deputy Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH LUCKNOW
APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE

TRIBUNALS ACT 1985

OA 349/09 (4)

Raj Kumar Singh Bhadoria

... Applicant

Versus

Union of India & others

... Respondents

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File today
20/12/09

Noted for 20/12/09

22/12/09

24/12/09

18/12/09

(2)

16. Annexure No. 15

True copy of the appeal dated 2.7.89
filed before the President of India

68-74
A9

11.5.12
Signature of the Applicant

FOR USE IN TRIBUNAL'S OFFICE

DATE OFFILING

OR

Date of Receipt by post
Registration No.

Signature

for Registrar

A10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
AT ALLAHABAD, CIRCUIT BENCH AT LUCKNOW.

SA No 349 of 1989 (C)

Raj Kumar Singh Bhadoria aged about
45 years son of Late Shri Chatur Singh
Bhadoria , Resident of Azad Nagar,
Sanjay Gandhi Marg, Lucknow, previously
employed as Investigator, Census Operation Directorate,
U.P. Lucknow Applicant

Versus

1. Union of India, through the Secretary
Ministry of Home Affairs, Government of
India, New Delhi.
2. The Registrar General India, Ministry of
Home Affairs, Government of India
2-A Maan Singh Road, New Delhi.
3. The Director of Census Operations, Directorate
of Census Operations, U.P. Lucknow.
- 17.5.2 4. Shri D.N. Mahesh, aged major, son of not known
to the applicant, at present posted as Deputy
Director Census Operations, U.P. Lucknow.

. . . . Respondents

DETAILS OF APPLICATION :

1. Particulars of the orders
against which the application
is made:

The application is
against the following
Orders:

i) No. 19/44/86/AMN dated
26.4.1989, passed by the
Registrar General India,
Ministry of Home Affairs
Government of India,
New Delhi. By means of
the above order the
applicant has been
compulsorily retired
from service purportedly
on the ground that
certain charges
levelled against
him had been found proved
in departmental enquiry
conducted against him
by the Respondents hereto.
A true copy of the
concerned order is
annexed hereto as
ANNEXURE NO. 1.

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2. JURISDICTION OF THE TRIBUNAL

The Applicant declares that the said order (Annex.1)
against which he wants redressal is within the
jurisdiction of the Tribunal.

3. LIMITATION:

The applicant further declares that the application
is within the limitation prescribed under Sec. 21
of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE:

(a) That the applicant was initially appointed by means of an order dated 6.5.1971 on the post of Statistical Assistant in the Directorate of Census Operations, U.P. Lucknow and having served as such for a period of ~~40~~ about 9 years he was considered fit to be promoted as a Tabulation Assistant in the year 1980-81 and subsequently by means of an order dated 4.9.1985 the petitioner was appointed by transfer as Investigator on regular basis with effect from 11.5.1985 and until further orders which post the petitioner is holding ever since then. A true copy of the order dated 4.9.1985 is annexed hereto as ANNEXURE NO.2.

17.5.82

b) That though the petitioner served the office of the Director of Census operation with his utmost devotion to duty, honesty and efficiency without any adverse entry or remarks in his till date Character Roll, it appears that some interested person, who wanted to harm the reputation and service of the applicant, in collusion with certain other persons got an application dated 15.5.1986 moved by Shri Shiv Govind Singh, Senior Vice Chairman of the Jan Kalyan Eram Mohalla Vikas Samiti, Neel Kanthpuri, Azad Nagar, Alambagh, Lucknow addressed to the Hon'ble Minister for Home Affairs Government of India New Delhi, drawing his attention to the provisions of rule 29 of the U.P. Government

(4)

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Servants Conduct Rules, and submitting therein that the applicant despite being a Government servant in the office of the Directorate of Census Operations U.P. Lucknow had married one Sheela Srivastava, also serving in the said office though his first wife was alive and was residing in village and post Baduri District Etawah. A true copy of the concerned application is annexed hereto as ANNEXURE NO.3

c) That it also appears that on the basis of the aforesaid application an enquiry was instituted into the allegations levelled therein and the matter was referred to the District Magistrate Etawah for conducting an inquiry into the allegations levelled in the aforesaid application.

d) That it appears that the District Magistrate Etawah required the Senior Superintendent of Police Etawah to enquire into the matter, who, in turn entrusted the said inquiry to the Station Officer Incharge, Police Station Badhpura District Etawah to enquire into the matter and submit a report.

e) That it also appears that the Station Officer concerned enquired into the matter and submitted a report dated 30.4.1987 to the Senior Superintendent of Police, pointing out therein that the applicant had married Smt. Dropdi Devi Daughter of Shri Kanchhed Singh Resident of village Nagala Chandrel Bharthana District Etawah according to Hindu rites about the year 1960. The aforesaid report was counter-signed by the Senior Superintendent of Police Etawah on 2.5.1987.

Pr-512

A14

(5)

A true copy of the concerned report is being annexed hereto as ANNEXURE NO. 4.

f) That it is relevant to point out here that prior to the aforesaid report being submitted another enquiry was got conducted by the Station Officer Incharge Police Station Badhpura District Etawah, and in that enquiry, the said Station Officer had submitted a report dated 25.6.1986 pointing out therein that one Shri Raj Kumar Singh's first wife is Dropdi Devi Daughter of Shri Kanchhed Singh. However, in the letter on the basis of which the aforesaid inquiry was conducted it was mentioned that the applicant had disclosed his wife's name as Smt. Sheela Bhadoria and as such it was clear that the applicant had contacted second marriage during her life time. A true copy of the said letter is annexed hereto as ANNEXURE NO.5.

g) That the aforesaid report was forwarded by the District Magistrate, Etawah alongwith his letter dated 26.6.1986 addressed to the Deputy Director Census Operations, Directorate of Census Operations U.P. Lucknow stating that on inquiry it had been found that the ~~applicant~~ Applicant had married Smt. Dropdi Devi some time in the year 1960 and she had a child also from ~~his first~~ her. True copy of the concerned letter is annexed hereto as ANNEXURE NO.6.

h) That ~~under~~ not only the above, it appears that the authorities of the Directorate Census Operations U.P. Lucknow were not satisfied with all the aforesaid

(6)

repeated enquiries conducted in the matter and yet another enquiry was got conducted by the Circle Officer Bharthana District Etawah, who submitted his report dated 4.5.1987 mentioning therein that on enquiries it was found that the applicant had married Smt. Dropdi Devi some time in the year 1960. A true copy of the concerned report is annexed hereto as ANNEXURE NO.7.

i) That it was on the basis of the aforesaid report that an inquiry was instituted against the applicant as well as his wife Smt. Sheela Bhadoria by the Registrar General India, Ministry of Home Affairs, Government of India, New Delhi under rule 14 of the Central Civil Services (Classification, control and Appeal) Rules, 1965 and pursuant thereto a charge sheet dated 25.4.1988 was issued against the applicant by the Registrar General India, Ministry of Home Affairs, New Delhi requiring the applicant to submit his written statement of defence within 10 days of receipt of the said charge sheet.

Along with the aforesaid charge sheet statement of charges were annexed in which the applicant was charged with having committed misconduct in as much as during the life time of his first wife Smt. Dropdi Devi daughter of Shri Kanchhed Singh, he had married Smt. Sheela Bhadoria and as such he had violated the provisions of Rule 21(2) and 3(i) of the Central Civil Services (Conduct) Rules. A true copy of the concerned charge sheet is annexed hereto AS ANNEXURE NO. 8.

j) That together with the applicant, his wife Smt. Sheela Bhadoria, who is also serving in the Directorate, Census Operations U.P. Lucknow was issued a charge sheet

A 16

(7)

dated 6.5.1988 by the Director of Census and requiring her to submit a written statement of defence within 10 days of receipt of charge sheet. Alongwith the aforesaid charge sheet, a statement of charges was also annexed in which Smt. Sheela Bhadoria was charged with misconduct of having married the applicant during the life time of his first wife Smt. Droupdi Devi and as such she had violated provisions of Rule 21(I) and 3(I) of the Central Civil Services (Conduct) Rules. A true copy of the concerned charge sheet is annexed hereto as ANNEXURE NO. 9.

k) That subsequently it appears that by means of an order dated 27.6.1988, passed by the Registrar General India, Ministry of Home Affairs New Delhi - Respondent No.4 hereto was appointed as Inquiry Officer to conduct the enquiry against the applicant and his wife.

1) That it also appears that on receipt of the aforesaid charge sheets, the applicant and his wife submitted representations addressed to the Director, Census Operations, U.P. Lucknow, requesting therein that they be supplied with the copies of the documents on the basis of which the charges levelled against him were sought to be proved and which had been mentioned in the third schedule annexed to the charge sheets. However, the applicant and his wife were only supplied with the copies of the documents mentioned at serial

A/7

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No.1, 2, 3, 4, and 5 of the Schedule and they were not supplied with the documents mentioned at Serial No.6, 7 and 8 of the said schedule.

D

m) That in this connection it is relevant to point out here that the applicant had specifically submitted an application dated 12.5.1988 addressed to the Director Census Operation U.P. Lucknow praying for being supplied with the copies of the documents mentioned in the third schedule to the charge sheet issued against him and in reply to the said letter an order dt. 7.6.1988 was passed by the Director Census Operations, U.P. Lucknow in which the Applicant was informed that he could not be supplied with the documents requested for by him and as such he should file his written statement of defence positively by 10.6.1988 failing which the Inquiry Officer would be compelled to proceed ex-parte against him. The true copies of the applications dated 12.5.1988 and the order dated 7.6.1988 are being annexed hereto as ANNEXURES NO. 10 and 11 respectively.

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n) That however, as already submitted, the applicant was supplied with the copies of the documents mentioned at serial No. 1 to 5 of the third schedule and not the documents mentioned at serial No. 6 to 8 of the said schedule.

o) That both the applicant and his wife submitted their written statement of defence vide their joint

(9)

A 18

statement dated 16.8.88 in which the applicant raise the defence that in view of the fact that according to the documents supplied to him in respect of the charges, Smt. Dropdi Devi had been married to him in the year 1960 and she was living away from him without any complaint about his so called second marriage and since the only person aggrieved of the said second marriage had not come forward with any complaint against him, it obviously showed that the allegations against the applicant had been originated by a persons/persons who were interested in spoiling the career and reputation of the applicant. Further, the applicant contended that according to his service record, his date of birth was 1.4.1946 and as such in the year 1960 when he is said to have married Smt. Dropdi Devi, he was only 14 years old or, in other words he was a minor and under the Hindu Marriage Act, the marriage of a boy below 18 years of age is illegal and as such the said marriage was a nullity in the eyes of law. Moreover, it was the duty of the persons who are said to have performed the said marriage to have checked such an illegal marriage but instead of do so according to them, they consented to the said marriage which would show that the complaints were initiated against him for personal gains. Smt. Sheela Bhadoria contended in her aforesaid statement that she had no knowledge that her husband - the applicant was already married

11/5/2

A19

(10)

to Smt. Dropdi at the time of his marriage with her and ever since her marriage in the year 1973 she had not met any lady by the name of Smt. Dropdi and as such, she could not be charged with having committed any misconduct. A true copy of the statement submitted by Smt. Sheela Bhadoria is annexed hereto as ANNEXURE NO. 12.

p) That the applicant and his wife after the close of the aforesaid oral evidence had submitted a list of additional documents and defence witnesses together with their written statement of defence in which they had mentioned additional documents as service book of the applicant and his wife, in order to prove the age of the applicant in the year 1960 when he is said to have married Smt. Dropdi Devi. Alongwith the aforesaid documents, a list of witnesses containing the names of Smt. Dropdi, Shri Virendra Singh Bhadoria, Smti Brij Raj Singh, Shri Sarvjit Singh, Shri Harvilas Sharma and Shri Mahadeo Singh was submitted.

q) That, however, it appears that none of the aforesaid witnesses requested for by the Defence appeared on the two dates fixed by the Inquiry Officer for their appearance on 8th Sept. 1988 and 4th November 1988, whereafter the Learned Inquiry Officer proceeded with the inquiry without examining the aforesaid witnesses as according to him they had given their signed statements to

the District Authorities.

r) That, however, despite the aforesaid defence Written Statement, the inquiry Proceedings against the applicant and his wife and besides the documents mentioned in the third schedule to the charge sheet the oral statement of Shri B.S.Gahnot Station Officer Incharge, Police Station Badhpura District Etawah was recorded by the Inquiry Officer together with the statements of Shri Ram Datta Awasthi Additional Development Officer, Panchayat, Badhpura District Etawah.

s) That thereafter the Learned Inquiry Officer submitted his inquiry report dated 7.2.1989 wherein he came to the conclusion that the charges levelled against the applicant had been proved whereas his wife Smt. Sheela Bhadoria had committed no mis-conduct. A true copy of the inquiry Report is annexed hereto as ANNEXURE NO. 13.

t) That on the basis of the aforesaid Inquiry Report, by means of the impugned order contained in Annexure No.1 hereto, the applicant has been compulsorily retired from service whereas by means of an order of the same date his wife was exonerated.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

- A. Because the impugned order compulsorily retiring the applicant is illegal, arbitrary and against the weight of the evidence on record.
- B. Because the charges levelled against the applicant is that he had contacted second marriage with Smt. Sheela during the life time of his first wife Smt. Dropdi Devi whom he is said to have married some time in the year 1960. However, it is respectfully submitted here that in view of the undisputed fact that the applicant's date of birth according to Government record maintained by the respondents hereto is 1.4.1946, in the year 1960 he was 14 years of age. In view of the above and in view of the provisions of Section 5(iii) of the Hindu Marriage Act, which provides that a marriage between two Hindus can be solemnised only if the bride-groom is about 21 years of age and the ~~the~~ bride is above 18 years age at the time of marriage, and, further in view of the provisions of section 11 of the aforesaid Act a marriage solemnised in contravention of provisions of Section 5 is illegal and null and void even if it is presumed that the applicant married Smt. Dropdi Devi, the said marriage being apparently in contravention of Section 5 of the Hindu Marriage Act was null

and void.

C. Because Rule 21 of the Central Civil Services (Conduct) Rules, would apply only in a case where both first and second marriages are valid in the eyes of law and if the first marriage is null and void or illegal as being in contravention of the provisions of Hindu Marriage Act, contracting a second marriage during the subsistence of such a void marriage would not constitute misconduct under rule 21 aforesaid.

D. Because in view of the above, the entire charge levelled against the applicant falls to the ground in view of the fact that apparently his marriage with Smt. Dropdi Devi even if it is assumed that he married her, was illegal and null and void and as such he cannot be said to have committed any misconduct by marrying Smt. Sheela Bhadoria after his marriage with Smt. Dropdi Devi.

E. Because though the Learned Inquiry Officer has relied on the inquiry reports of the District Magistrate Etawah dated 25.6.1986, the Senior Superintendent of Police Etawah dated 26.6.86 Station Officer, Police Station Badhpura, District Etawah dated 30.4.1987 and the report of the Circle Officer Bharthana dated 4.5.1987 to substantiate the charges levelled against the

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(14)

applicant, except for the Station Officer Police Station Badhpura, District Etawah, neither the District Magistrate Etawah nor the Senior Superintendent of Police Etawah nor the Circle Officer Bharthana Etawah had been summoned by the Inquiry Officer to prove so called reports submitted by them and as such the said reports remained unproved in the inquiry concerned and in view of the above, the learned Inquiry Officer manifestly erred in law in relying on the aforesaid reports of the District Magistrate, Etawah, the Senior Superintendent of Police Etawah and Circle Officer, Bharthana District Etawah.

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F. Because though it is true that neither the Indian Evidence Act nor the Rules of evidence applicable to Criminal Prosecution are applicable to departmental proceedings but notwithstanding the said facts, even in departmental proceedings the document which is sought to be relied has to be proved by the author of the document concerned, more so in view of the fact that in absence of the evidence of the author of a document sought to be relied on in departmental proceedings, the document concerned can be said to be correct but the contents thereof cannot be proved except by the statement on oath of the author of the concerned documents.

G. Because besides above, the Learned Inquiry Officer

(15)

A 24

manifestly erred in law in not summoning witnesses mentioned by the applicant in his defence statement when they failed to appear on 8th Sept. 1988 and 4th November 1988 on the ground that they had given their written statement to the District Authorities. It is respectfully submitted here that the reports of the District Authorities regarding the factum of the first marriage of the applicant is based on the statements of a number of witnesses including the witnesses whom the applicant required to be summoned in his defence. The whole purpose of summoning the aforesaid witnesses was to enable the applicant to prove that he had not married Smt. Propdi Devi as alleged and the so called reports submitted by the District Authorities of Etawah on the basis of statements of witnesses was incorrect. However, the applicant has been denied an opportunity to prove the aforesaid aspect of his case and also to disprove the basis of the charges levelled against him i.e. the report of the District Authorities of Etawah as the Learned Inquiry Officer failed to summon the witnesses whom the applicant wanted to summon in his defence. Moreover, if the aforesaid witnesses had appeared before the Inquiry Officer the applicant could have cross examined them regarding the authenticity of their statements recorded by the District Authorities as the said statements

1/5/2

were not in their handwriting which opportunity has also been denied to the applicant in view of the failure of the Inquiry Officer to summon the witnesses on apparently misconceived grounds.

H. Because the Learned Inquiry Officer manifestly erred in law in over-ruling the defence plea raised on behalf of the applicant that since he was minor at the time of his alleged marriage with Smt-Dropdi Devi, the said marriage being in contravention of the provisions of Hindu Marriage Act, was a nullity in the eyes of law and as such he had committed no misconduct in contacting marriage with Smt. Sheela Bhadoria on the ground that on being aware that his marriage was illegal he should have taken a legal recourse for undoing the first marriage. It is respectfully submitted here that since the so called marriage of the applicant with Smt. Dropdi Devi was illegal there was no question of taking any legal recourse for undoing the said marriage as it was a nullity in the eyes of law.

I. Because the Learned Inquiry Officer has based his findings with regard to the inconsistency of the name of his so called first wife, ~~xxxx~~ which at some places is Smt. Dropdi Devi which is not the name of the applicant and at other places it is Raj Rani, on conjectures and surmises on the ground that in traditional India

the daughter-in-law gets different name after marriage and also gets aliases. It is submitted here that there was no evidence on record to indicate either that Smt. Dropdi Devi and Smt. Raj Rani is one and the same person or that Smt. Dropdi Devi had been given the name of Smt. Raj Rani and as such the conclusion reached by the Inquiry Officer on the basis of some customs which according to him prevailed in traditional India is absolutely misconceived.

- 7/4/52
- J. Because the Learned Inquiry Officer also erred in law in overruling the contention of the applicant that he had not married Smt. Dropdi Devi as if that was true, Smt. Dropdi Devi would not have remained quite for more than 20 years and would have taken some steps against her husband more so in view of the fact that she had contracted another marriage during her life time on the ground that in Hindu society it is a social stigma for a wife to enter into a legal battle with her husband when she was being maintained by her inlaws. It is respectfully submitted here that the aforesaid basis for the Learned Inquiry Officer to over-rule the contention of the applicant is absolutely conjectural and is based on material extraneous to the records of the case and as such they are illegal.
- K. Because there is no provision in the Central

Civil Services (Conduct) Rules, under which it has been provided that an act in violation of the provision of the Conduct Rules would make a Govt. servant liable to disciplinary action and that the said action would amount to mis-conduct. In the absence of the aforesaid provision, merely because a Government Servant violated any conduct Rule it does not mean that he can be proceeded departmentally as it settled principle of law in view of the various decisions of the Honble Supreme Court that unless a particular act or omission has been specified as a misconduct in the Service Rules, the said act or omission cannot be made the basis for any disciplinary proceeding, the impugned disciplinary proceedings against the applicant on the ground that he had violated rule 21 of the Conduct Rules is arbitrary and illegal.

- L. Because the provisions of Rule 21 of the Central Civil Service (Conduct) Rules do not completely prohibit second marriage by a Government servant as Proviso to Sub Rule (2) gives power to the Central Government to permit a Government Servant to enter into a second marriage if according to it, the said marriage is permissible under personal Law or, there are other grounds for doing so.

In other words, if the Central Government grants such a permission the Govt. servant can contract a second marriage ~~not~~ withstanding the fact that under section 494 I.P.C. there is a complete bar on any person contacting the second marriage during the life time of his first wife. In other words, the Central Government has been given power to permit a Govt. servant to commit an offence under section 494 I.P.C. which the Central Govt. does not have any power to do and as such and in view of the fact that the Proviso to Sub Rule (2) of Rule 21 is ~~not~~ un-separable from the provisions of Sub Rule (1) and (2) of the said rules. The entire Rule is liable to be struck down on the ground that it is repugnant of section 494 I.P.C.

M. Because even otherwise marriage by a Govt. Servant is his private affair which had nothing to do either with his capacity as a Govt. servant or his duties as such. Under proviso to Article 309 of the Constitution of India the President of India has obviously the power to lay down Code of Conduct to be observed by the Govt. servants but in exercise of this power, the President of India can relate the conduct of a Govt. servant only during the office hours or at the place of his work. In exercise of that power, the President of India has no authority

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or jurisdiction to require a Govt. servant to do or not to do a particular work after his working hours or in his private life. It is respectfully submitted here that if the President of India has the power to regulate the Conduct of a Govt. servant even in his private life, the position of a Government Servant would be reduced to a slab though he is required to perform his duties for a part of the day only and at a particular place, he is not free to act in a manner which he wants, subject ofcourse of the general law of the land beyond those hours and away from his working place. Since the status of a Govt. servant is not that of a slave nor is the status of employer that of a Master, The provisions to Article 309 of the Constitution of India has to be interpreted to mean that in exercise of the powers the President can only regulate the conduct of a Government Servant during his working hours and at the place of his work. In view of the above and in view of the fact that rule 21 of the Conduct Rules do not regulate the conduct of a Govt. servant during working hours or at the place of his work, they are apparently beyond the rule making power by the President under proviso to Article 309 of the Constitution

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of India and as such they are liable to be struck down.

6. DETAILS OF THE REMEDIES EXHAUSTED.

The applicant declares that he has availed of all remedies available to him under the Central Civil Services (Classification Control and Appeal) Rules.

(a) The applicant had filed an appeal against the impugned order passed against him before the Secretary Ministry of Home Affairs, Government of India, New Delhi on 17.6.1989. However, by means of a letter dated 30.6.1989 issued by the Deputy Director Office of the Registrar General India, Ministry of Home Affairs Government of India, New Delhi the applicant was informed that the appeal against ~~him~~ the impugned order should have been filed before the President of India and not the Secretary Ministry of Home Affairs and as such the appeal filed by the applicant could not be entertained and as such he was advised that if he wants to submit any appeal, he may address the same to the President of India. A true copy of the concerned letter is annexed hereto as ANNEXURE NO. 14.

(b) In compliance of the aforesaid letter, the applicant has preferred an appeal before

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the President of India on 2.7.1989, which is, ^{B1}
however, yet pending. A true copy of the
concerned appeal is annexed hereto as ANNEXURE NO15.

7.

MATTERS NOT PREVIOUSLY FILED OR PENDING
WITH ANY OTHER COURT.

The applicant further declares that the
applicant has not previously filed any application
writ petition or suit regarding the matter
/respect of
in/which this application is being filed
before any court of law or authority or any
other Bench of the Tribunal nor any such
suit or Writ Petition is pending.

8.

RELIEFS SOUGHT:

In view of the facts mentioned in para 6 above,
the applicant prays for the following reliefs:

(i) quash the impugned order dated 26.4.1989
passed by the Registrar General India,
Ministry of Home Affairs, Government of
India New Delhi as contained in
Annexure No.1 and 2 ; and

(ii) direct the respondents hereto to retain
the applicant on the post of Investigator
Directorate, Census Operations U.P. Lucknow and pay
him salary and allowances of the post
to the petitioner; and

(iii) direct the respondents hereto not to
enforce the operation of rule 21 of the
Central Civil Services (Conduct) Rules
after declaring the same to be
ultravires of Section 494 I.P.C. and

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also to be beyond the rule making power of the President of India under the proviso to Article 309 of the Constitution of India, and grant any other relief deemed fit and proper in the circumstances of the case, including order awarding cost of this application to the applicant against the Govt.

9. INTERIM ORDER, IF ANY, PRAYED FOR:

N.A.

10. In the event of application being sent by Regd. post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so, he shall attach a self-addressed Post Card or Inland letter, at which intimation regarding the date of hearing could be sent to him.

.. N.A.

11. Particulars of Bank Draft/Postal Order filed in respect of the application fee.

Postal Order for Rs.50/-
No. 402729

dated 18.12.88

12. LIST OF ENCLOSURES:

As per Index filed alongwith application

VERIFICATION

I, Raj Kumar Singh Bhadoria, Son of Late Shri Chatur Singh Bhadoria, aged about 45 years, working as Investigator, Census Operation, Directorate, U.P. Lucknow, Resident of Azad Nagar, Sanjay Gandhi Marg, Lucknow, do hereby verify that the contents of paras 2 to 4 and 6 & 7 are true to my personal knowledge and paras 5 & 8

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believed to be true on legal advice and that I
have not suppressed any material fact.

Date: ^{December} 18th September 1989
Place: Lucknow

Signature of the
Applicant

Through

(AMIT BOSE)
Advocate

Counsel for the Applicant

तार 'जन गणना'

अनेक नं०- 1 रजिस्ट्रार

सं० / 19/44/85-प्रशा०

भारत सरकार

गृह मंत्रालय

भारत के महा रजिस्ट्रार का कार्यालय

2/ए, मानसिंह रोड

नई दिल्ली, दिनांक 26 अप्रैल 1989

आदेश

जन गणना कार्य निदेशालय, उत्तर प्रदेश, लखनऊ में संगणक के पद पर कार्यरत श्रीमती शीला भदौरिया के विरुद्ध तारखे 7 जून, 1988 के जापन संख्या ए० ई/ डी० सी० ओ-उ० प्र०/ए-266 के नियम 14 के अंतर्गत अनुशासनिक कार्यवाही आरम्भ की गई थी। उन पर आरोप था कि :-

" जन गणना कार्य निदेशालय, उत्तर प्रदेश में संगणक के पद पर कार्यरत श्रीमती शीला भदौरिया ने जन गणना कार्य निदेशालय, उत्तर प्रदेश में अवेधक के पद पर कार्यरत श्री राजकुमार सिंह भदौरिया के साथ विवाह किया जबकि उनकी पहली विवाहिता पत्नी द्रोपदी देवी सुपुत्रों श्री कछेद सिंह, जो ग्राम और पोस्ट बहुरो, जनपद इटावा में रह रही है, उस समय जीवित थी। इस प्रकार श्रीमती शीला भदौरिया ने केंद्रीय सिविल सेवा (आचरण) नियमावली के नियम 21(1) और नियम 3 (1) का उल्लंघन किया है। "

2- उक्त श्रीमती शीला भदौरिया ने अपने तारखे 10 जून, 1988 के उत्तर में आरोप को अस्वीकार कर दिया। श्री डी० एन० मेहता, उप निदेशक जन गणना कार्य, उत्तर प्रदेश, लखनऊ को तारखे 27 जून, 1988 के आदेश सं० 19/44/86-प्रशा० द्वारा जांच प्राधिकारी नियुक्त किया गया। जांच प्राधिकारी श्री मेहता ने विधिवत जांच करने के पश्चात् 7 फरवरी, 1989 को अपनी रिपोर्ट (प्रति संलग्न) प्रस्तुत की और यह निर्णय दिया कि श्रीमती शीला भदौरिया के विरुद्ध लगाया गया आरोप प्रामाणिक नहीं हुआ है।

श्री भदौरिया के विरुद्ध लगाया गया आरोप प्रामाणिक हो गया है।

3- अधीक्षक अधिकारी अर्थात् अनुशासनिक प्राधिकारी ने श्री भदौरिया के विरुद्ध लगाए गए आरोप पत्र और जांच प्राधिकारी की रिपोर्ट का शीतो-मौलि अध्ययन किया है और इस बात से संतुष्ट है कि जांच प्राधिकारी ने शीतो प्रकार से और ठोस तर्कों के आधार पर निर्णय निकाला है। अधीक्षक अधिकारी इस बात से भी संतुष्ट है कि श्री भदौरिया को उनके विरुद्ध लगाए गए आरोप से अपना बचाव करने के लिए हर प्रकार से उचित अवसर दिया गया था और जांच प्राधिकारी

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द्वारा श्री भदौरिया की जांच करते समय नैसर्गिक न्याय के सिद्धांतों का अनुपालन किया गया है। इस प्रकार, अशोक्ताक्षरी जांच प्राधिकारों के निष्कर्षों से सहमत हैं। श्री भदौरिया के विरुद्ध लगाया गया और सिद्ध किया गया आरोप एक गम्भीर प्रकार का आरोप है और अशोक्ताक्षरी भी उसे इसी दृष्टि से देखते हैं। इस मामले से जुड़ी सभी सुसंगत बातों पर विचार करने के पश्चात् और उसके द्वारा किए गए अपराध को स बहुत ही गम्भीरता से लेने की आवश्यकता को देखते हुए अशोक्ताक्षरी का यह विचार है कि श्री भदौरिया केंद्रीय सरकार की सेवा में रहने के उपयुक्त नहीं रहे हैं और उन पर सेवा से अनिवार्य सेवानिवृत्ति को शास्ति आबिरोधित की जाय। तदनुसार, अशोक्ताक्षरी यह आदेश देते हैं कि श्री भदौरिया उस तारोख से सरकारी सेवा से अनिवार्यतः सेवानिवृत्ति हो जायेंगे जिस तारोख को यह आदेश ऊँ है दिया जायेगा।

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हृदय बो० एस० वर्मा

[बो० एस० वर्मा]

भारत के मन्त्र रक्षिद्वार

सेवा में,

श्री राज कुमार सिंह भदौरिया

अधेष्क,

जन गणना कार्य निदेशालय,

उत्तर प्रदेश, लखनऊ।

[निदेशक जन गणना कार्य,

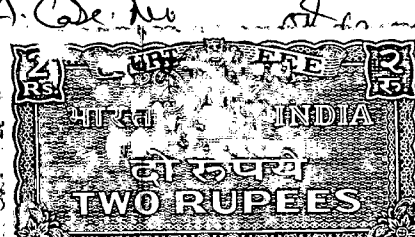
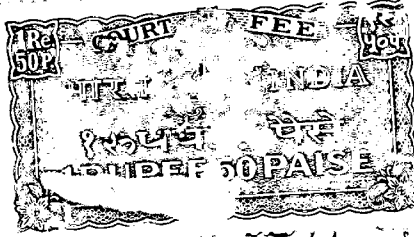
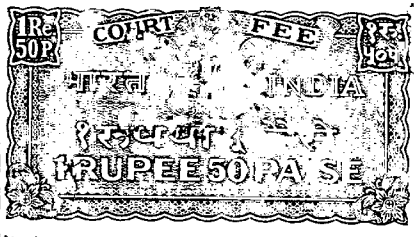
उत्तर प्रदेश, लखनऊ के

माध्यम से]

T. C.
D. C. S. S. S.

ब अदालत श्रीमान The Central Administrative Tribunal Additional Bench
Allahabad Circuit Bench महोदय

[वादी] अपीलान्त P. S. Singh श्री Raj Kumar Singh Bhattacharya का वकीलतनामा B6
प्रतिवादी [रेस्पान्डेंट]



Raj Kumar Singh Bhattacharya बनाम प्रतिवादी (रेस्पान्डेंट)
Union of India

मुकदमा नं० सन् 1989 पेशी की ता० 18.12.88 ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

Anil Bose

वकील
महोदय
एडवोकेट

नाम अदालत
मुकदमा नं० नम
फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेंरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा छपर मुकदमा अदम पेंरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह पक्षान्तनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted
Anil Bose
18/12/88

हस्ताक्षर 18/12

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 18 महीना 12 सन् 1988 ई०

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
FLOATING BENCH LUCKNOW.

T.A.No. of 1989

Raj Kumar Singh Bhadoria ... Applicant

Versus

Union of India & others ... Respondents

ANNEXURE NO. 2

NO. 18/25/85-AD.I
Government of India
Ministry of Home Affairs
Office of the Registrar General, India

2/A Man Singh Road,
New Delhi 110 011
Dated: 4 Sept 1985

O R D E R

In terms of the provisions of Note 1 below column 10 of the Schedule to the Recruitment Rules for the post of Investigators promulgated vide G.S.R.No.463 published in the Gazette of India in Part 2, Section 3, Sub Section (i) dated 11th May 1985, the following regularly appointed Tabulation Officers in the Scale of Rs.550-900 are deemed to be appointed, by transfer, as Investigators in the scale of Rs.550-900 in a temporary capacity, on regular basis in the offices they are working, with effect from 11th May 1985 until further orders:-

<u>Sl.No.</u>	<u>Name of the Tabulation Officer</u>	<u>Office where working</u>
1.	Smt. B. Rajya Laxshmi	DCO, Andhra Pradesh
2.	Sri S. Nageshwara Rao	-do-
3.	Sri K.V. Sarma	-do-
4.	Sri V.L.P. Sastry	-do-
5.	Kum.T. Jayalakshmi	-do-
6.	Shri M. Hanumanaik	-do-
7.	Smt. D. Sarojini	-do-
8.	Shri Nikhil Ch. Bhagabati	DCO, Assam.
9.	Shri Koshy P. Zachariah	DCO Haryana

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10.	Shri S.K.Bhandari	DCO Himachal Pradesh
11.	Sri Jaipal Singh	-do-
12.	Shri Babu Ram	-do-
13.	Shri Pir Bashir Ahmed	-DCO Jammu & Kashmir
14.	Shri Mohd. Amin	-do-
15.	Shri Badri Nath	-do-
16.	Shri Kamal-ud-din Kamili	-do-
17.	Shri P.K.Khosa	-do-
18.	Shri T.P.Singh	-do-
19.	Shri Baldeo Chand	-do-
20.	Shri Mohd. Yousaf Bhat(II)	-do-
21.	Shri Venkatachala Rao	DCO Karnataka
22.	Shri Smt. M.Vasanth	-do-
23.	Shrimati M.Prathibha	-do-
24.	Shri Raja Rao	-do-
25.	Shrimati P.Sharada(SC)	DCO Kerala
26.	Shri R.Devarajan	-do-
27.	Shri S.C.Jain	DCO Madhya Pradesh
28.	Shri Komal Chand Jain	-do-
29.	Shri Vishram Singh	-do-
30.	Shri C.P.Chaturvedi	-do-
31.	Shri O.P.Tiwari	-do-
32.	Shri Satnam Singh Chandok	DCO Madhya Pradesh
33.	Shri S.R.Rai	-do-
34.	Shri B.R.Banwal	-do-
35.	Shri Asha Jaiswal	-do-
36.	Shri S.Kisputta (ST)	-do-
37.	Shri S.K.Lamba	-do-
38.	Shri N.P.Sharma	-do-
39.	Smt. J.S. Pednekar	DCO, Maharashtra
40.	Shri P.G. Abhyankar	-do-
41.	Shri A.S.Kulkarni	-do-
42.	Shri R.K.Sanatomba Singy	DCO Manipur.

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		DCO Uttar Pradesh
76.	Shri Lala Ram Katiyar	-do-
77.	ShriManzoor Ali	-do-
78.	Shri S.K. Srivastava	-do-
79.	Shri Jagdish Prakash	-do-
80.	Shri K.C.Gupta	-do-
81.	Shri BashisthaSingh	-do-
82.	Shri V.K.Nigam	-do-

They will be on trial for a period of 2 years from the date of their appointment.

The above order does not indicate the inter-se seniority of the persons concerned and their inter-se seniority shall be the same as in the Grade of Tabulation Officer in the respective offices.

Hindi version of this order will follow.

Sd/- V.P.Pandey)

Joint Registrar General, India
for Registrar General, India
DATED:

No.18/25/85-AD.I

Copy forwarded to the:

1. Director of Census Operations, Andhra Pradesh/Assam/ Haryana/Himachal Pradesh/Jammu & Kashmir/Karnataka/ Kerala/Madhya Pradesh/Maharashtra/ Manipur/Meghalaya/ Nagaland/Punjab/Rajasthan/Sikkim/Tamil Nadu/West Bengal/ Arunachal Pradesh/Bihar and Uttar Pradesh. It is requested that particulars regarding date of birth, educational qualifications and date of entry into service etc. of the above persons(in the order of seniority in grade of Tabulation Officers) may be furnished immediately to enable this office to include their names in the seniority list of Investigators
2. Pay & Accounts Officer(Census)MHA, New Delhi.
3. Persons concerned through respective Census Directorates
4. Order file.

TRUE COPY

Sd/- (R.C.Sachdeva)
Assistant Director

T.C.
Dit 20/8/85
Cen.

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सरकारी कर्मचारों के रूप में कार्य कर रहे हैं उन्होंने उसी
कार्यालय में कार्य करने वाली एक महिला कर्मचारी शीला
श्रीवास्तव के उपर्युक्त नियमों के विरुद्ध शादी कर लिया है
जबकि महिला विवाहित पत्नी अब ही जिन्दा है। वह ग्राम
व पो० बाहुरी जिला इटावा में निवास कर रही है ,
जिसे अभी तक उन्होंने तलाक़ तक नहीं दिया है। इस प्रकार
श्री राज कुमार सिंह गदौरिया और शीला श्रीवास्तव जो दोनों
सरकारी कर्मचारी हैं के आचरण 'सरकारी सेवक' आचरण
संहिता के विरुद्ध है। इनके विरुद्ध कठोर कार्यवाही
किया जाना अपेक्षित है ताकि वास्तविक निवास पत्नी को
न्याय मिल सके।

भवदीय

ड० शिव गोविन्द सिंह
(विकी गोविन्द सिंह)
वरिष्ठ उपाध्यक्ष

प्रतिलिपि निम्नलिखित को भी सूचनाई एवं आवश्यक कार्यवाही हेतु
प्रेषित :-

- 1- निदेशक, जनगणना निदेशालय, उ०प्र० लखनऊ
- 2- श्रीमान् खानाध्यक्ष महोदय खाना कृष्णनगर - लखनऊ
उपरोक्त व्यक्ति आनन्दनगर लखनऊ में रहते हैं।

सत्य प्रतिलिपि

Dr. Shiv Govind Singh

अंक नं०-4

बढ़पुरा जनपद इलावा

सेवा में,

श्रीमान् ज्येष्ठ पुलिस अधीक्षक महोदय

जनपद इलावा

द्वारा - उचित माध्यम

विषय:-

जो आर० नं० 15/87 सम्बन्धित श्री राज कुमार भदौरिया व०

श्री चतुर सिंह भदौरिया बहुरो बढ़पुरा जिला

इलावा हाल अवैधक, कार्यालय निदेशक जनगणना परिचालन

उ० प्र० के सम्बन्ध में आया ।

श्रीमान् जो,

निवेदन है कि श्री राज कुमार भदौरिया जो कि अवैधक पद पर कार्यालय निदेशक जनगणना परिचालन प्रशासनिक अनुभाग - लखनऊ उत्तर प्रदेश में नियुक्त हैं मूल निवासी ग्राम बहुरो जिला बढ़पुरा जनपद इलावा के हैं जिनके पिता का नाम श्री चतुर सिंह भदौरिया है। जो आजकल बनपुर में रह रहे हैं ।

श्री राज कुमार भदौरिया को शादी सन् 1960 के लगभग श्रीमती द्रोपदी देवी पुत्री कछेद सिंह निवासी ग्राम नगला कदेल बरझना जिला इलावा हिंदी रीति रिवाज के साथ हुई थी । जिसके पास एक लड़का उमर करीब 17-18 साल है , जो कक्षा 9 का विद्यार्थी है । द्रोपदी देवी ही राज कुमार भदौरिया को सही धर्म पाली हैं । श्री राज कुमार भदौरिया 4 भाई हैं । भाई-प्रथम -2 स्थानों पर सर्विस करते हैं । बड़े भाई श्री वीरेंद्र सिंह गाँव में रहते हैं जो प्रा० पाठशाला में प्रधानाध्यापक हैं । संयुक्त परिवार के उसी में श्रीमती द्रोपदी देवी रहती हैं ।

ऐसा सुना जाता है कि राज कुमार भदौरिया ने किसी शीत श्रीवास्तव भदौरिया से शादी कर ली है । मगर वह आज तक गाँव नहीं आई है । श्रीमती द्रोपदी देवी हिंदू रिवाज को मानने वाली औरत है , उसे अपने

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से कोई शोकायत नहीं है । अपने परिवार के साथ सुखी है ।

रिपोर्ट अवलोकनार्थ सेवा में प्रेषित है ।

रजिस्टर्ड

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ज0 आर0 15/87

व0 एम0 गहलोत

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वदपुरा इटावा

वरिष्ठ पुलिस अधीक्षक

30-4-87

इटावा

2-5-87

(सोल)

सत्य प्रतिलिपि

Miss Gargi

सेवा में,

श्रीमान् जिलाधिकारी मन्नेदय जनपद इटावा
=====विषय:- जांच जो.आर.0 नं. 223 डेट 16-6-86
मन्नेदय,

निवेदन है कि पत्र में अंकित आरोप की जांच की तो वाभा गया कि श्री राज कुमार बदोरिया की शादी वर्ष 1960 में श्रीमती द्रोपदी देवी पुत्री श्री कछेद सिंह नगला चंदेला पो. उमरखेड़ा थाना हरकना के साथ हुई थी उसके एक कच्चा भी है। जो ग्राम बहुरी अपनी ससुराल में रह रही है।

श्रीमती द्रोपदी की शादी श्री राजकुमार सिंह से हुई थी इस बात की पुष्टि करने वाले गवाहान श्री मन्नदेव सिंह प्रधान, वरेन्द्र सिंह, शर्मा राज कुमार सिंह, बृजराज सिंह पुत्र वितान सिंह, सर्वजीत सिंह पुत्र जनक सिंह, हर विलाश शर्मा पुत्र यगोती प्रसाद साकिनान बहुरी हैं।

श्रीमती द्रोपदी देवी से पूछा जा चुका है कि मरे पति ने दूसरी शादी नहीं की है, इस बात की पुष्टि उपरोक्त सभी लोगों की है।

उपरोक्त जांच से स्पष्ट है कि श्री राजकुमार सिंह की पहली पत्नी द्रोपदी पुत्री कछेद सिंह ग्राम नगला चंदेला पो. उमरखेड़ा थाना हरकना जिला इटावा की रहने वाली हैं। जो साबर है। जैसा कि आपके पत्र में अंकित है कि कार्यालय के अभिलेख में अपनी पत्नी का नाम शिला बदोरिया जो मंगणक के पद पर काम करती है। गलत अंकित कराया है। इससे स्पष्ट है कि श्री बदोरिया ने पहली पत्नी के जीवित रहते हुए दूसरी शादी कर ली है।

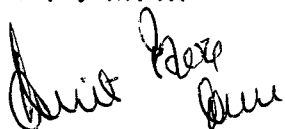
परन्तु उपरोक्त जांच व उपरोक्त पत्र छान से मालूम हुआ है कि दूसरी शादी नहीं की है।

जांच रिपोर्ट आवश्यक कार्यवाही हेतु प्रेषित है।

ह.0 अ.प.ठित 25-6-86

शानाध्यक्ष

सत्य प्रतिलिपि



ओर नं०-6

प्रेषक,

जिलाधिकारी,

इटावा

सेवा में,

वी० के० भागव

उप निदेशक

जन गणना परिचालन, उत्तर प्रदेश

25, नवल किशोर रोड, लखनऊ

संख्या 4219/ए०डी०एम०-86

दिनांक जून 25, 1986

विषय:- श्री राजकुमार सिंह भदौरिया के विरुद्ध शिकायत

महोदय,

कृपया उपरोक्त विषयक से सम्बन्धित अपने पत्रांक: एई/

/ड०

स० ओ०-यू०पी०/ए-दिनांक मई, 1986 का अवलोकन करने का कट करें,

इसको जांच अनायक बड़पुरा जिला इटावा द्वारा कराई गयी। अनायक बड़पुरा

ने अपनी आज्ञा दिनांक 13-6-86 द्वारा यह अवगत कराया है कि श्री राजकुमार

सिंह भदौरिया को शादी वर्ष 1960 में श्रीमती द्रोपदी देवी पुत्री श्री कछेद सिंह

ग्राम नगल कदेल पोस्ट उमरसेड़ा अना भरना जिला इटावा के साथ हुई थी।

उसके एक बच्चा भी है, जो ग्राम बाहुरी अपनी ससुराल में रह रही है। श्रीमती

द्रोपदी को शादी श्री राजकुमार सिंह से हुई थी इस बात को पुष्टि करने वाले

गवाहन श्री महादेव सिंह प्रधान, बोरेंद्र सिंह भाई, राजकुमार, बृजराज सिंह पुत्र श्री

चितान सिंह, सर्वजित सिंह पुत्र श्री जनक सिंह, हरविश शर्मा पुत्र श्री भगैतोप्रसाद

साविनान बाहुरी हैं। सूचनाई प्रेषित है।

भवदीय

ह० हरि शंकर पाण्डेय

श्री हरि शंकर पाण्डेय

अपर जिलाधिकारी, इटावा

T.C.
Dinesh Kumar

31

अनंकर नं०- 7

वरिष्ठ पुलिस अधीक्षक,
जनपद इटावा

कृपया आप अपने पत्र सं० एस० टी०/डी : 267 दिनांक 10-4-1987
का संदर्भ लेने की कृपा करें। जिसके द्वारा आपने शासन से प्राप्त श्री बी० के०
भागवत, उप निदेशक के पत्र की जांच अपेक्षित की है।

संदर्भित पत्र में निम्न विवरण लिखा है कि श्री ~~राज~~ राज कुमार
सिंह भदौरिया निवासी ग्राम व पोस्ट बहुरो जनपद इटावा को शादी वर्ष 1960
में श्रीमती द्रोपदी देवी पुत्री श्री कछेद सिंह ग्राम नगला चंदेल पोस्ट उमर खंडा
शाना भरकना के साथ हुई जो कि कार्यालय निदेशक जनगणना परिचालन,
परिचालन उत्तर प्रदेश में अवेधक पद पर कार्यरत हैं। इनके पिता का नाम
चतुर सिंह भदौरिया है। कृपया छान वीन कर सूचित करने का कष्ट करें अथवा
उक्त कार्यालय में कार्यरत अवेधक एवं ग्राम व पोस्ट बहुरो जनपद इटावा निवासी
राज कुमार सिंह भदौरिया एक ही व्यक्ति है।

उपरोक्त के सम्बन्ध में जांच की गयी तो ज्ञात हुआ कि राज कुमार
सिंह भदौरिया सन आफ श्री चतुर सिंह भदौरिया निवासी ग्राम व पोस्ट बहुरो जनपद
इटावा का निवासी है। राज कुमार सिंह को शादी वर्ष 1960 में नगला चंदेल
पोस्ट उमर खंडा शाना भरकना निवासी श्री कछेद सिंह की पुत्री श्रीमती द्रोपदी
देवी के साथ हुई जो।

अतः यह राज कुमार भदौरिया वही व्यक्ति है जो कि ग्राम
बहुरो शाना बड़पुरा इटावा का रहने वाला है तथा उसको शादी श्री कछेद सिंह
की पुत्री श्रीमती द्रोपदी देवी के साथ हुई है तथा उपरोक्त कार्यालय में अवेधक के
पद पर कार्यरत है एक ही व्यक्ति है।

रिपोर्ट अवलोकन एवं आवश्यक कार्यवाही हेतु प्रेषित है।

संलग्न : पत्र उपरोक्त

ह० अपठित

4-5-89

क्षेत्राधिकारी भरकना
इटावा

T.C.
[Handwritten signature]

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अलेक्जर नं०- 8

तार : "जन गणना "

सं० / 19/44/86 -प्रशा० P

भारत सरकार

गृह मंत्रालय

भारत के मूल रजिस्ट्रार का कार्यालय

नई दिल्ली, दिनांक 25, मई 1988

25 अप्रैल, 1988

ज्ञापन
= = = =

केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियमावली 1965 के नियम 14 के अंतर्गत अधीनस्थ अधिकारी द्वारा श्री राज कुमार सिंह शर्मा के अवेक के विरुद्ध जांच करने का प्रस्ताव है। उनके विरुद्ध कदाचार के आरोप का सारांश संलग्न आरोप के अनुच्छेद के विवरण (परिशिष्ट I) में दिया गया है। प्रत्येक आरोप के समक्ष में कदाचार के आरोपों का विवरण (परिशिष्ट II) में दिया गया है। प्रत्येक की एक सूची उनके द्वारा आरोप पत्र की पुष्टि करने का प्रस्ताव है, भी संलग्न है (परिशिष्ट III)।

11/5/88

2- श्री राज कुमार सिंह शर्मा को निर्देश दिया जाता है कि इस ज्ञापन की प्राप्ति के दस दिन के भीतर अपने ब्याव में लिखित ब्याव प्रस्तुत करें और यह भी बताएं कि क्या वे सुनवाई के लिये स्वयं उपस्थित होना चाहते हैं।

3- उन्हें सूचित किया जाता है कि केवल उन्हीं आरोपों की जांच की जायेगी जिन्हें वे स्वीकार नहीं करेंगे। इसलिए वे प्रत्येक आरोप को स्पष्ट रूप से या तो स्वीकार करें या अस्वीकार करें।

4- श्री राज कुमार सिंह शर्मा को आगे यह भी सूचित किया जाता है कि यदि वे अपने ब्याव में उक्त पैराग्राफ 2 में दिए गए समय तक या उससे पूर्व लिखित ब्याव नहीं भेजते हैं या व्यक्तिगत रूप से जांच अधिकारी के सामने उपस्थित नहीं होते हैं या केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियमावली 1965 के नियम 14 के उपबन्धों या उस नियम के अनुसार जारी किए गए आदेशों / निर्देशों का पालन करने में असफल रहते हैं या पालन करने से इंकार करते हैं तो जांच अधिकारी उनके विरुद्ध एक पक्षीय जांच कर सकते हैं।

T.C.
Dut has
an.

5- श्री राज कुमार सिंह शर्मा, अवरक का ध्यान केन्द्रीय सिविल सेवा (आचरण) नियमावली 1964 के नियम 20 की ओर आकर्षित किया जाता है जिसके अनुसार कोई भी सरकारी कर्मचारी सरकार के अर्थात् अपनी सेवा से सम्बन्धित मामलों में अपने हित को बढ़ाने के लिए किसी वरिष्ठ अधिकारी पर न तो कोई राजनैतिक या बाहरी प्रभाव डालेगा या न ही प्रभाव डालने का कोई प्रयास करेगा। इन कार्यवाहियों से सम्बन्धित किसी मामले में अगर कोई दूसरा व्यक्ति उनकी ओर से कोई प्रतिवेदन करता है तो यह माना जावेगा कि श्री राज कुमार सिंह शर्मा, अवरक को इस प्रतिवेदन की जानकारी है तथा यह प्रतिवेदन व इनकी के आदेश पर रखा गया है और उनके विरुद्ध केन्द्रीय सिविल सेवा (आचरण) नियमावली 1964 के नियम 20 का उल्लंघन करने के लिये कार्यवाही की जावेगी।

6- इस ज्ञापन की प्राप्ति सूचना दें।

13/2

डॉ. बी.एस. वर्मा
(बी.एस. वर्मा)
भारत के मन्त्र रक्षिदार

श्री राज कुमार सिंह शर्मा,
अवरक, जन गणना कार्यालय,
उत्तर प्रदेश, लखनऊ।

सत्य प्रतिलिपि

Dist. Secy

परिशिष्ट -1

श्री राज कुमार सिंह शर्मा, अवैधक, जन गणना कार्यालय,
उत्तर प्रदेश के विरुद्ध लगाये गये आरोपों का विवरण

अनुच्छेद - 32 = 1

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श्री राज कुमार सिंह शर्मा ने जन गणना कार्य निदेशालय, उत्तर प्रदेश में अवैधक के पद पर कार्य करते समय श्रीमती शीला शर्मा, जो कि जन गणना कार्य निदेशालय, उत्तर प्रदेश में संगणक के पद पर कार्यरत है, से दूसरा विवाह किया जब कि उनकी पहली विवाहिता पत्नी श्रीमती झोपदी देवी सुपुत्री श्री कछेद सिंह अभी जीवित है और उनके पैतृक निवास ग्राम व पोस्ट बाहुरी, जनपद इटावा में रह रही हैं। इस प्रकार श्री शर्मा ने केन्द्रीय सिविल सेवा (आचरण) नियमावली 1964 के नियम 21 (2) और नियम 3 (1) के उपबन्धों का उल्लंघन किया है।

सत्य प्रतिलिपि

Unit Page
Date

परिशिष्ट - II

श्री राज कुमार सिंह गदौरिया, अवेधक के विरुद्ध लगाए गए
आरोपों के समर्थन में कदाचार के आरोपों का विवरण

अनुच्छेद- I

श्री राज कुमार सिंह गदौरिया ने जनगणना कार्य निदेशालय, उत्तर प्रदेश में अवेधक के पद पर कार्य करते समय श्रीमती शीला गदौरिया, जो कि इस कार्यालय में सांगणक के पद पर कार्यरत हैं, से दूसरा विवाह किया जब कि उनकी पहली विवाहिता पत्नी श्रीमती द्रोपदी देवी सुपुत्री श्री कछंद सिंह अही जीवित हैं। उन्होंने इस विवाह की न तो कोई अनुमति ली और न ही सरकार द्वारा कोई अनुमति दी गई है। इस प्रकार उन्होंने तथ्यों को जान बूझ कर छुपाया है और सरकार को ठगाने की कोशिश की है। ऐसा करके उन्होंने ऐसा अचरण किया है जो सरकारी कर्मचारी के लिए अपमानजनक है। उनके उक्त अचरण से सरकारी कर्मचारियों द्वारा दूसरा विवाह करने सम्बन्धी उपकरणों का भी उत्पन्न हुआ है।

सत्य प्रतिलिपि

P. S. H.

T. E.
D. S. Rao
D. S. Rao

अनुक्र नं०- ९

परिशिष्ट - III

उन प्रलेखों की सूची जिनसे श्री राज कुमार सिंह शर्मा, अन्वेषक के विरुद्ध लगाये गये आरोपों की पुष्टि करने का प्रस्ताव है

- अनुच्छेद - 1- मिलाधिकारी इटावा का पत्र संख्या 4219/ए0डी0एम086 दिनांक 25-6-86
- 2- थानाध्यक्ष बड़पूरा जनपद इटावा की जांच रिपोर्ट जी० आर० संख्या 223 दिनांक 25-6-86 वरिष्ठ पुलिस अधीक्षक, इटावा द्वारा प्रतिहस्ताक्षरित ।
- 3- वरिष्ठ पुलिस अधीक्षक, इटावा की दिनांक 2-5-87 की रिपोर्ट ।
- 4- लेखाधिकारी, हरद्वारा, जनपद इटावा की दिनांक 4-5-87 की रिपोर्ट ।
- 5- श्रीमती द्रोपदी देवी पुत्री श्री कछेद सिंह निवासी नगला चंडेल, डा० उमरखेड़ा, थाना हरद्वारा, जनपद इटावा का दिनांक 28-4-87 का लिखित बयान (ग्राम प्रधान बाहुरी द्वारा प्रमाणित) ।
- 6- श्री राज कुमार सिंह शर्मा का दिनांक 26-11-88 का पत्र ।
- 7- श्रीमती शीला शर्मा, संगणक द्वारा प्रस्तुत विवाह सम्बन्धी घोषणा पत्र ।
- 8- श्री राज कुमार सिंह शर्मा द्वारा प्रस्तुत नामांकन एवं अर्जित अवकाश प्रार्थना पत्र दिनांक 13-12-77

सत्य प्रतिलिपि

पत्रांक: एई/ /डीसीओओ-यूओपी/ए-2114

भारत सरकार

गृह मंत्रालय

कार्यालय निदेशक जनगणना परिचालन, उत्तर प्रदेश

(प्रशासनिक अनुभाग)

25, नवल किशोर रोड,

लखनऊ: 226001,

दिनांक: मई 6, 1988

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केन्द्रीय सिविल सेवा (वर्गीकरण) नियंत्रण और अपील नियमावली 1965 के नियम 14 के अंतर्गत अधीक्षताधारी द्वारा श्रीमती शीला शर्मा, संगणक के विरुद्ध जांच का प्रस्ताव है। उनके विरुद्ध आरोप का सारांश संलग्न आरोप पत्र के विवरण (परिशिष्ट -1) में दिया गया है। आरोप की पुष्टि में कदाचार के आरोपों का विवरण (परिशिष्ट -2) में दिये गये हैं। प्रलेखों की एक सूची उनके द्वारा आरोप पत्र पुष्टि करने का प्रस्ताव है। परिशिष्ट -111 में दी गई है :-

- 2- श्रीमती शीला शर्मा, संगणक को निर्देश दिया जाता है कि वे इस ज्ञापन की प्राप्ति के दस दिन के भीतर अपने बचाव में लिखित बयान प्रस्तुत करें और वह यह भी बतावें कि क्या वह सुनवाई के लिये स्वयं उपस्थित होना चाहती हैं।
- 3- उन्हें सूचित किया जाता है कि केवल ऊर्हीं आरोपों की जांच की जावेगी जिन्हें वे स्वीकार नहीं करेंगी। इसलिए प्रत्येक आरोप को या तो स्पष्ट रूप में स्वीकार करें या अस्वीकार करें।
- 4- श्रीमती शीला शर्मा, संगणक को आगे यह भी सूचित किया जाता है कि यदि वह अपने बचाव में उक्त पैराग्राफ 2 में दिये गये समय तक या उससे पूर्व लिखित बयान नहीं देती है या व्यक्तिगत रूप से जांच अधिकारी के सम्मक्ष उपस्थित नहीं होती है या केन्द्रीय सिविल सेवा (वर्गीकरण नियंत्रण और अपील) नियमावली 1965 के नियम 14 के प्रावधानों का उपर्युक्त नियम के अनुसरण में जारी किये गये आदेशों का पालन करने में चूक करती है या अस्वीकार करती हैं तो जांच अधिकारी

उनके विरुद्ध एक पक्षीय जांच कर सकते हैं ।

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श्रीमती शीला भदौरिया, संगणक का ध्यान केंद्रीय सिविल सेवा (आचरण नियमावली) 1964 के नियम 20 की ओर आकर्षित किया जाता है जिसके अंतर्गत सरकारी कर्मचारी अपनी सेवा से सम्बन्धित मामले में अपने हित में किसी अधिकारी पर राजनैतिक या बाहरी प्रभाव नहीं डालेगा या प्रभाव डालने का कोई प्रयास नहीं करेगा । इन कार्यवाहियों में किसी मामले के सम्बन्ध में अगर कोई दूसरा व्यक्ति उनकी ओर से कोई प्रतिवेदन करता है तो यह माना जावेगा कि श्रीमती भदौरिया, संगणक को इस प्रतिवेदन की जानकारी है तथा यह ऊहों के द्वारा छिपारित किया गया है और इस प्रकार उनके द्वारा केंद्रीय सिविल सेवा (आचरण नियमावली) 1964 के नियम 20 के उल्लंघन हो जाने से उनके विरुद्ध कार्यवाही की जायेगी ।

6-

इस ज्ञापन की प्राप्ति सूचना है ।

ह0 कदन गोपाल

(कदन गोपाल)

निदेशक

श्रीमती शीला भदौरिया

संगणक ।

सत्य प्रतिलिपि

152

T. C.
Amit Singh
Amm.

परिशिष्ट-१

जनगणना कार्य निदेशालय, उत्तर प्रदेश में संगणक के पद पर कार्यरत श्रीमती शीला शर्मा के विरुद्ध लगाये गये आरोपों का विवरण
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जनगणना कार्य निदेशालय उत्तर प्रदेश में संगणक पद पर कार्यरत श्रीमती शीला शर्मा ने जनगणना कार्य निदेशालय उत्तर प्रदेश में अवेबक के पद पर कार्यरत श्री राजकुमार सिंह शर्मा के साथ विवाह किया जब कि उनकी पहली विवाहिता पत्नी श्रीमती द्रोपदी देवी पुत्री श्री कछेद सिंह जो ग्राम व पो० बहुरी, जनपद इटावा में रह रही है, उस समय जीवित थी। इस प्रकार श्रीमती शीला शर्मा ने केन्द्रीय सिविल सेवा (अवकाश) नियमावली के नियम 2। (1) और नियम 3। (1) का स उल्लंघन किया है।

सत्य प्रतिलिपि

15

T.E.
Dinesh Kumar
Dinesh Kumar

परिशिष्ट नं०-१।

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श्रीमती शीला शर्मा, संगणक के विरुद्ध लगाये गये आरोपों के
समर्थन में कदाचार के आरोपों का विवरण

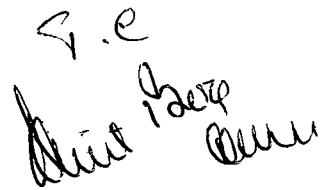
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अनुच्छेद - 1

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जनगणना कार्य निदेशालय, उ०प्र० में संगणक के पद पर
कार्यरत श्रीमती शीला शर्मा ने जनगणना कार्य निदेशालय उत्तर प्रदेश
में अवैधक के पद पर कार्यरत श्री राज कुमार सिंह शर्मा के साथ
विवाह किया है। यह आरोप लगाया गया है कि उनके विवाह के समय
श्री शर्मा की पहले से ही एक विवाहिता पत्नी थी जिसका नाम श्रीमती
द्रोपदी देवी सुपुत्री श्री कच्छेद सिंह है जो ग्राम व पो० बाहुरी जनपद
इटावा में रहती है। श्रीमती शीला शर्मा अपने विवाह से पहले इस
तथ्य का पता लगाने में विफल रही कि श्री शर्मा ने उनसे शादी करने
से पहले श्रीमती द्रोपदी देवी से शादी कर रखी थी। उन्होंने श्री शर्मा
के पहले हुए विवाह के तथ्यों के बारे में रिपोर्ट की सक्षम अधिकारी को
नहीं की। इस प्रकार उन्होंने ऐसा आचरण किया है जो सरकारी कर्मचारी
के लिये शोचनीय नहीं है। उनके इस आचरण से सेवा सम्बन्धी उन उपबन्धों
का ही उत्खनन हुआ है जिनके अनुसार यदि किसी व्यक्ति की पहली पत्नी
जीवित हो तो उससे शादी नहीं की जा सकेगी।

सत्य प्रतिलिपि

परिशिष्ट - १११

उन प्रसंगों की सूची जिनसे श्रीमती शीला शर्मा, संगणक के विरुद्ध लगाये गये आरोपों की पुष्टि करने का प्रस्ताव है ।

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- अनुच्छेद 1- जिलाधिकारी इटावा का पत्र संख्या 4219/ए0डी0एम086 दिनांक 25-6-86
- 2- शानाध्यक्ष बड़पुरा जनपद इटावा की रिपोर्ट जी० आर० संख्या 223 दिनांक 25-6-86 वरिष्ठ पुलिस अधीक्षक इटावा द्वारा प्रतिहस्ताक्षरित ।
- 3- वरिष्ठ पुलिस अधीक्षक इटावा की दिनांक 2-5-87 की रिपोर्ट ।
- 4- क्षेत्राधिकारी शरणा जनपद इटावा की दिनांक 4-5-87 की रिपोर्ट ।
- 5- श्रीमती द्रौपदी देवी पुत्री श्री कछेद सिंह निवासी नगला चंदेल डा० उमर बड़ा शाना शरणा जनपद इटावा का दिनांक 28-4-87 का लिखित बयान ग्राम प्रधान बाहुरी द्वारा प्रमाणित ।
- 6- श्रीमती शीला शर्मा, संगणक द्वारा प्रस्तुत विवाह सम्बंधी घोषणा पत्र ।
- 7- श्री राज कुमार सिंह शर्मा का दिनांक 26-11-86 का पत्र ।
- 8- श्री राज कुमार सिंह शर्मा, अवैधक द्वारा प्रस्तुत नामांकन एवं अर्जित अवकाश प्रार्थना पत्र दिनांक 13-12-77

सत्य प्रतिलिपि

17/5/87

T. C.
Smt. Smt. Smt.

डीपी पत्रांक 452 डीसीओ यू पी
सेवा में,

दिनांक 12-5-88

निदेशक,
जनगणना परिचालन उओ,
25 नवल क्लोर रोड,
लखनऊ 226001

महोदय,

आप द्वारा प्रेषित भारत के मन्त्र पंजीकरण के पत्र संख्या 19/44/86 प्रशा० दिनांक 25 अप्रैल 1988 जो मुझे दिनांक 10-5-88 को प्राप्त हुआ है उसके सम्बन्ध में मेरा अनुरोध है कि मुझे उत्तर देने के लिये निम्नलिखित कगजातों की प्रमाणित प्रतियाँ उपलब्ध कराने का कष्ट करें, ताकि मैं आरोपों का उत्तर दे सकूँ मैं इसके लिए आभारी रहूँगा।

- 1- जिला अधिकारी इटावा का पत्र संख्या 4229/ए०डी०एम० 86 दिनांक 25-6-86
- 2- अनाथ बड़पुरा जनपद इटावा की जांच रिपोर्ट जो आ० संख्या 223 दिनांक 25-6-88 वरिष्ठ पुलिस अधीक्षक इटावा द्वारा प्रति हस्ताक्षरित।
- 3- वरिष्ठ पुलिस अधीक्षक इटावा की दिनांक 2-5-87 की रिपोर्ट।
- 4- क्षेत्राधिकारी हररना जनपद इटावा की दिनांक 4-5-87 की रिपोर्ट।
- 5- श्रीमती झोपदी देवी पुत्र श्री कछेद सिंह निवासी नगला कदेल डाकघाना उमर खंडा रना हररना जनपद इटावा का दिनांक 28-4-87 का लिखित बयान / ग्राम प्रधान बाहुरी द्वारा प्रमाणित।
- 6- श्रीमती शीला शर्मा संगणक द्वारा प्रस्तुत विवाद सम्बन्धी घोषणा-पत्र।
- 7- मेरे द्वारा राजकुमार सिंह शर्मा (प्रस्तुत नामांकन एवं वर्जित अवकाश का प्रार्थना पत्र दिनांक 13-12-77 2

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भारत सरकार
गृह मंत्रालय
कार्यालय निदेशक जनगणना परिचालन, उत्तर प्रदेश
(प्रशासनिक अनुशासन)

25, नवल किशोर रोड,

लखनऊ: 22600।

दिनांक: जून 7, 1988

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उनके प्रार्थना पत्र दिनांक 12-5-88 के संदर्भ में श्रीमती शीला शर्मा रिया संगणक को सूचित किया जाता है कि उनके द्वारा वांछित कागजातों की प्रमाणित प्रतियाँ केंद्रीय सिविल सेवा (वर्गीकरण नियंत्रण और अपील नियमावली) 1965 के डाइजेस्ट पैरा 10 नियम 14(4) के अनुसार उपलब्ध नहीं करवाई जा सकती।

उनका लिखित स्पष्टीकरण कि क्या वे सुनवाई के लिये स्वयं उपस्थित होना चाहती है या नहीं हर हालत में दिनांक 10-6-88 तक अवश्य मिल जाना चाहिए अन्यथा जहाँ अधिकारी उनके विरुद्ध एक पक्षीय कार्य कर सकते हैं।

ड० कन्हन गोपाल
(कन्हन गोपाल)
निदेशक

श्रीमती शीला शर्मा रिया
संगणक, डी०पी० अनुशासन
सी-22 मदननगर, लखनऊ
सहायक निदेशक डी०पी० के माध्यम से।
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH LUCKNOW

CAT CASE NO. OF 1989

RAJ KUMAR SINGH BHADORIA.....APPLICANT

VS.

UNION OF INDIA & OTHERS.....OPPOSITE PARTIES

ANNEXURE NO. 12

To

Shri D.N. Mahesh

Inquiry Officer

Sub:- Written Statement of Defence.

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Ref:- Registrar General India Memo No.19/44/86-

dated 25-4-88

Sir,

Following is my written statement of defence at the close of case for the Disciplinary authority:-

1. The Charge

I have been alleged to have married a Second time which having a living wife and this the provisions of rule 21(2) and 3(2) have been violated. This charge has been proposed to be sustained only with the help of certain documents shown in annexure- III of the charge sheet. No annexure IV is there in the charge sheet i.e. no state witnesses have been proposed to Confirm the documents in support of the charge. Thus an incomplete charge sheet has been issued

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and I have been denied the reasonable opportunity to defend my case and I have been forced to face an indefinite charge.

2. According to the Service book and service record requisitioned as an additional document, my date of birth is 1-4-1946. I have been alleged to have married a lady named Smt. Dropadi in the year 1960. All documents produced in support of the charge show:-

(i) That Smt. Dropadi Devi had married with me in the year 1960. She is living happily away from me & She has made no Complaint so far alleging that I have married a Second time. Thus the main affected person (if it is a fact that I had married with her) has no grievance at till where as if it would have been is fact, Smt. Dropadi was the person who had Come forward with a Complaint to Safe guard her future. No lady would tolerate the second marriage of her husband and She can not remain inactive right from 1960 to this day. Thus the denial of Smt. Dropadi that she never made a Complaint on the subject of that She was living happily goes to prove that the case has been originated by persons in their intevst to find me in hot waters & that by some of my relations to do away the ancestral property. In fact a lady can not live happily without conjugal rights & away from her husband for such a long time & that too when the knew that the husband had a second wife.

3. The Gram Pradhan the Police and the Distt. Magistrate Etawah in their findings have endorsed that I had married Smt. Dropadi in the year 1960. These officers are required to check marriages of minors under the provisions of sharda or Hindu Marriage Act. If they had arrived at the

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The Conclusion that I had married Smt. Dropadi in the year 1960 when I was fourteen years old, the right course for them was to have registered a case against those who organised this marriage & who witnessed it because not only I was minor then but I was hardly a student of VI standard where as I was an MA(Eco) when I solemnised marriage with Smt. Sheela Bhadoria while both in service fulfilling Hindu Ceremonies in the very presence of parents, relations & friend. If Smt. Dropadi would have married me in the year 1960, she would have taken every measure to stop the marriage then or to have resorted to legal recourse afterwards where as Smt. Dropadi has got no complaint & has been living happily during the period from 1960 to 1988 without movement. This further proves that Smt. Dropadi has been enjoying conjugal rights & full maintenance from the person who is her legal husband.

Case of Smt. Sheela Bhadoria

REF:- Director Census Operations, UP No. AE/DCO-UP/A-2114
dated 6-5-88

1. I have been chiefly alleged to have married a person who had already a wife married in the year 1960.

I married with Shri R.K.S. Bhadoria while we both were in service, we were adults & of marriageable age.

2. According to Service book and service records, my date of birth is 15-12-1950 and I have one daughter named Km. Ruchi Kumari with date of birth 8-5-75 and one

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Bhadoria

son Rohit Kumar with date of birth 19-9-79 and I married with Shri R.K.S. Bhadoria on 8-7-1973 observing Hindu Ceremonies, issue of inistation cards in the pusence of parents, relations and firends openly.

3. Since my marriage I have never hewrd or met with any lady Smt. Dropadi claiming to have married my husband earlier than me in the year 1960. Neither Smt. Dropadi ever resorted to legal recorerse nor She complained to any one claiming herself as my husbands first wife, Smt. Dropadi in exhibit No.P-5(her statement dated 28-4-87) has clearly stated that although she married my husband in the year 1960 but she never made complaint against my husband and lived happily. It is worth consideration that whether a lady can live apart with her husband for years together even after knowing that her husband has got a Second wife. Actually Smt. Dropadi has been intorduced in the affairs with vested interest to bhack meal us for money but in doing so they fanled to notice that in the year 1960 my husband & Smt. Dropadi were not only minors but they were of 14 and 11 years old.

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Rule-21(2)

According to rule-21(2) of C.C.S(Conduct) Rules, 1964 a complete and legal marriage is matrimonial alliance of perfect nature between two adults. There is no scope

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of rule 21(2) *ibid* as far as its applicability is concerned over a so called marriage of boy of 14 and girl of ~~xxx~~ 11. These rules are applicable on Central Service Servants when they are in service and apparently 18 years or over in age. These rules can not apply on alleged past acts when one was just 14 years & not in service. At the most it can be treated(if proved, a girvenite offence beyond the applicability of rule-21(2) *ibid*. Since rule-21(2) is not applicable, there is no violation of rule- 3(1) also.

yours faithfully,

16-8-88

Smt. (Sheela Bhadoria)

(R.K.S.Bhadoria)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH LUCKNOW

CAT CASE NO. OF 1989

RAJ KUMAR SINGH BHADORIA.....APPLICANT

VS.

UNION OF INDIA & OTHERS..... OPPOSITE PARTIES

ANNEXURE NO. 12 Tied

To

Shri D.N.Mahesh

(E.O)

Dy. Director

O/O the Director of Census Operations

U.P. Lucknow.

Sub:- List of Additional Documents of Defence Witnesses.

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Sir,

The following is the list of additional documents &
defence witnesses with their relevancy :-

Particulars of addl. document/ Relevancy
defence witnesses.

1. Service books of Shri R.K.S. This will show the age in
 Bhadoria & Smt.Sheela Bhadoria 1960 when Shri R.K.S.
 Bhadoria is alleged to have
 married with Smt. Dropadi.

Defence witnesses

2. Smt. Dropadi
 C/O Shri Virendra Singh Aggrieved party.
 Bhadoria Vill: Bahuri P/O
 Bahuri Distt.Etawah.

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Vide D.M. Etawah letter
No.4219/ADM-86 dt.25.6.86,
the person has been named as
witness to the charge.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH LUCKNOW

CAT CASE NO. OF 1989

Raj Kumar Singh Bhadoria.....Applicant

Vs.

Union of India & Others.....Opposite Parties

Annexure No. 13

REPORT ON THE ENQUIRY CONDUCTED IN THE CASE OF SHRI RAJ
KUMAT SINGH BHADORIA, INVESTIGATOR AND SMT. SHEELA BHADORIA,
COMPUTER IN THE OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS,
U.P. LUCKNOW.

INTRODUCTORY

The undersigned was appointed the Enquiry Officer
by the Registrar General, India vide order No.19/44/86-AD-I
dated 27th June, 1988 received on 5.7.88. For convening the
preliminary hearing a notice was served on the charged govt.
servants on 14th July, 1988 directing them to present them-
selves on 28th July, 1988 in the chamber of the undersigned
who had been appointed as the Enquiry Officer. Thereafter,
the inquiry started providing full opportunities to the govt.
servants to defend their case.

Board Features of the Case:

17/5/2 There was a complaint against Shri Raj Kumar Singh
Bhadoria informing this office that the said govt. servant
is an official of Census Directorate, U.P. at present married
to to one Smt. Sheela Bhadoria and having another living wife
to whom he was married sometimes back and at present she is a
resident of village Bahuri, Distt. Etawah of U.P. On the basis

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of this complaint the Office of the Director of Census Operations, U.P. Lucknow made preliminary investigations to ascertain the truth in the case. For the said purpose efforts were made through the Collector of Etawah to make the investigations. On his orders Sr. Superintendent of Police of Etawah submitted a report on 26.6.86 confirming the fact of Shri Raj Kumar Singh Bhadoria having married one Smt. Dropadi Devi D/O Sh. Kanchad Singh in the year 1960. Other relevant documents submitted by the authorities in the preliminary investigations also confirmed this fact and a departmental enquiry under rule 21(1) and 21(2) of the CCS Conduct Rules, 1964 was initiated against Shri R.K. S. Bhadoria as also against his present wife Smt. Sheela Bhadoria who happened to be employed in the Census Directorate of U.P. as a Computer.

Proceedings in the Preliminary hearings

On the first day of hearing that is on 28th July, 1988 both Shri Raj Kumar Singh Bhadoria and Smt. Sheela Bhadoria appeared before Enquiry Officer and did not admit the guilt and as such the proceedings started against both of them. They also wanted to avail of the assistance of a defence assistant which was permitted by the Enquiry Officer Shri K.S. Saxena, Section Supervisor, P.M.G. Office, Lucknow presented himself as Defence Assistant through out the proceedings of the case.

The inquiry was conducted in accordance with the provisions contained in rule 14 of CCS (CCA rule 1965).

Statement of facts admitted:

The charge was not admitted by either of the charged govt. servants. In their written statement Shri

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Bhadoria has nowhere categorically denied his first marriage but only contested the fact that if the alleged marriage was solemnized in 1960 when he was only 14 years of age, it has no legal sanctity because it was marriage of a minor. Moreover, he has stated that if the district authorities inquiring into the case has found the allegations to be true then why they have not filed a case under the Hindu Marriage Act against those who performed this marriage. He has also taken the plea that his relations are trying to blackmail him by introducing one Smt. Dropadi Devi as his wife. Shri Bhadoria also asserted that since Smt. Dropadi Devi had never come forward with any complaint against him for all these years it is only a fabricated case to harm him.

Smt. Sheela Bhadoria has completely denied any knowledge of having known or seen Smt. Dropadi Devi before or after his marriage which was stated to have been arranged by her parents.

The case and the gist of evidence produced:

In order to prove the charge the prosecution side presented the following documents as documentary evidence in the case :-

Letter No.4219/ADM-86 dated 25th June,1966 from the district Officer Etawah.

Exhibit I

Report of SSP Etawah dated 26.6.86.

Exhibit II

Report of Station Officer Barhpura dated 30.4.87 duly countersigned by SSP Etawah.

Exhibit III

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Report of Circle Officer Bharthana dated 4.5.87
alongwith the statements of the witness.

Exhibit IV

Earned Leave application of Sh. Bhadoria dated
13.12.77.

Exhibit V

All the relevent documents available with the presenting
officer inspected by both the charged officers and no
objection was raised about their authenticity.

These documents were examined by me and it was seen
from these documents that Shri Bhadoria had married Smt.
Dropadi in the year 1960. No wit nessee were produced by
the ~~defence~~ prosecution side. However, on a request
of the defence Shri B.S. Gahlot, SHO Barhpura district
Etawah who conducted the preliminary enquiries in case on
behalf of Distt. Administration of Etawah was summoned to
testify his report. He also confirmed the alleged marriage
and also revealed further taht Shri Bahdoria had a son also
from the alleged wife Smt. Dropadi. Shri Gahlot emphasised
the examination of family register of the village and voters
list for confirming his statement. These documents were
called from the concerned authorities and examined by me..
In the family register the name of Shri Bhadoria is there
and also there is the name of one Raj Rani shown as his wife.
Rajrani is neither the name of his first alleged wife nor of
second wife. Family register also contain the name of one
boy Satyender Kumar Singh with date of birth as 1.2.68,
father's name as Shri Raj Kumar Singh, Voters list did not
contain the name of Smt. Dropadi.

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Case of defence :

Defence was given full opportunity to give charge. They wanted to examine the following persons as defence witnesses :-

1. Smt. Dropadi Devi C/O Sh. Virendra Singh, Bhadoria R/O Village Bahuri P.O. Bahuri District Etawah.
2. Shri Virendra Singh Bhadoria
3. Sh. Brijraj Singh
4. Sh. Sarvjeet Singh
5. Sh. Har Vilas Sharma
6. Sh. Madho Singh

Registered notices were sent to all these persons twice, once on 8th Sept., 1988 and then on 4th Nov., 1988. But none of the defence witnesses was present except Shri Gahlot. These witnesses were the same persons who had figured in the preliminary investigations and had confirmed the alleged marriage in their written statements given to the district authorities. As such it was not thought necessary to approach them at their places when they had already given their signed statements and were summoned to present themselves twice.

List of Evidences:

The delinquent officer pleaded not guilty on the following grounds :-

1. He claimed that even if the marriage which is alleged ...6...

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to have taken place in 1960 is true he is not responsible because it was not his offence but of his parents. ^He argued that he being minor at that stage should not be held responsible of a marriage of which he had no concern.

2. He said that if the alleged marriage had been proved by the district authorities then the district administration should have taken cognizance and under the relevant marriage act proceedings should have been taken up against him or his parents. Since there is nothing on record about this, he claims this marriage as imaginary to involve him in the case by some vested interests.

3. As there is no such complaint from alleged first wife for all these years he argued that legally married wife could not live so long and that too happily without enjoying conjugal rights and also without resisting the second marriage.

4. He also raised a point regarding name of his wife shown in the village household register and the name given in the complaint. His point was that if Dropadi is the real name of his alleged wife why Raj Rani is featured in the Household Register of the village.

Analysis and findings:-

Central issue under the inquiry requiring settlement is as to whether Shri Raj Kumar Singh Bhadoria had married for the second time having the first wife living and whether Smt. Sheela Bhadoria his second wife was aware of his first marriage before her marriage to Shri Raj Kumar Singh Bhadoria or not.

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The evidences available on record was examined at length. It was found that the complaint was received from a social organisation of Lucknow regarding his first wife living at his native place and having solemnised the marriage with Smt. Sheela Bhadoria while his first wife was living.

The perusal of papers has confirmed this and it is beyond doubt that the case is not on flimsy grounds. The very first argument of the charged officer that he was a minor at that stage of his alleged first marriage does not absolve him of the offence of second marriage in the eyes of law. Even if the marriage was solemnised when he was too young but if he was aware of this fact then he should have taken legal recourse for first undoing the first marriage and the under going second marriage.

His argument about district administration remaining inactive at the time of his first marriage when he was a minor or at a later date is also not a ground to protect him from an act of misconduct simply on the reasons that the action was not taken 20 years back. According to normal law of justice any crime coming to the notice of the appropriate authorities can be penalized at any stage if it is proved .

His first wife having not made any complaint does not mean that she was not suffering. It appears from records that she is staying with the elder brother of the charged officer and enjoying full social protection. She is maintaining herself and her child from the income of the ancestral property of the officer. As such she

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has not shown any grouse during all these years for fear of losing these benefits. Also generally in the Hindu Society it is a social stigma for a wife to go in for legal battle against her husband especially when she is being protected, maintained and accepted by other members of the in-laws side. In the present circumstances she may be even glorified by her society in which she is living whereas going to the court would have given her a different status. Plea taken regarding inconsistency of name is important but keeping in view the traditional India where daughter-in-law gets different name after marriage and also having aliases cannot be ruled out. Such inconsistencies are not very uncommon in female names when all names are acceptable in the society in which the person is living. She being a house wife having no official dealings anywhere, cannot be expected to have bothered to get her name corrected.

There is an entry of one boy named Satyendra Singh S/O Shri Raj Kumar Singh Bhadoria, the charged officer, with date of birth as 1.2.68. Since marriage of Smt. Sheela Bhadoria was performed in 1973 the existence of first sons born in 1968 is an inconclusive proof of another marriage prior to his marriage with Smt. Sheela Bhadoria. On the basis of these analysis and keeping in view the facts of the

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case available on record the guilt of Shri Raj Kumar Singh Bhadoria is proved.

The case against Smt. Sheela Bhadoria :

There is nothing on record to prove that she had any knowledge of first marriage of Sh. Bhadoria. As in normal circumstances no lady would like to marry an already married man,. It appears taht her statement about her unawareness of Shri Bhadoria's first marriage is true.

As such no guilt is proved against her.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH LUCKNOW

CAT CASE NO. OF 1989

RAJ KUMAR SINGH BHADORIA.....APPLICANT

VS.

UNION OF INDIA & OTHERS.....OPPOSITE PARTIES

ANNEXURE NO. 14

TELEGRAM: "REG ENLIND"

NO.19/44/86-Ad.I (III) (Pt.)

Government of India

Ministry of Home Affairs/Grih Mantralaya

Office of the Registrar General, India

2/A, Mansingh Road,

New Delhi the 30 Jun '1989.

To

Shri R.K.Bhadoria,

(Ex-Investigator in the office of the
Director of Census Operations, Uttar
Pradesh, Lucknow)

C/O Directorate of Census Operations,
Uttar Pradesh,

LUCKNOW.

SUB:- Appeal against the orders of Compulsory Retirement
contained in Registrar General of India, Jamgarna,
Ministry of Home Affairs, New Delhi No.19/44/86-
Admn. dated 26.4.89.

Sir,

I am directed to refer to your appeal dated 17th
June, 1989 in the above mentioned matter addressed to the
Secretary, Ministry of Home Affairs, Government of India,

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New Delhi and to say that under Rule 26 of CCS (CCA) Rules, 1965, the appeal is required to be presented to the authority to whom the appeal lies. The President and not the Secretary, Ministry of Home Affairs, is the appellate authority in the case. Since the appeal dated 17th June 1989 has not been submitted to the authority to whom the appeal lies, the appeal cannot be entertained. In case you wish to submit any appeal you may address the appeal to the President. The appeal should also be in the form and content of appeal as prescribed in the above mentioned rules and should also be submitted within 45 days of the receipt of the orders appealed against.

In all future correspondence you may indicate your full postal address for enabling correspondence. As you are no longer on the strength of the Directorate of Census Operations, Uttar Pradesh, it would not be possible to correspond with you through the Uttar Pradesh Directorate.

Yours faithfully,

sd/-

(P. PARAMESWARAN)

DEPUTY DIRECTOR

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH ALLAHABAD

CIRCUIT BENCH, LUCKNOW

C.A.T. Case No. of 1989

Raj Kumar Singh Bhadoria ... Applicant

Versus

Union of India & others ... Respondents

ANNEXURE NO. 15

REGISTERED

To

The President of India,
Rashtrapati Bhawan,
New Delhi.

Dated: 2.7.1989

SUB: APPEAL AGAINST THE ORDER OF COMPULSORY
RETIREMENT CONTAINED IN REGISTRAR GENERAL
INDIA, JAN GANA, MINISTRY OF HOME
AFFAIRS NEW DELHI NO. 19/44/86/ANM

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Sir,

Most respectfully and humbly the applicant begs
to submit as under on the above noted subject:

1. The petitioner was charged for violating
Rule 21(2) and (3) of CCS(Conduct) Rules 1964 reproduced
below:

"21. Restriction regarding marriage -

(2) No Government servant having a spouse living
shall inter into or contract a marriage with
any person."

2. That according to service book of the applicant
he entered in the department on 5.5.1971. His
family consists of his wife, Smt. Sheela Bhadoria, his
daughter Km. Ruchi and a son Rohit. Their date of
birth and age is given below:

	<u>Date of Birth</u>	<u>Age</u>
1. Self R.K.Bhadoria	1.4.1946	43 years
2. Wife Sheela Bhadoria	15.12.1950	39 years
3. Daughter Ruchi	8.5.75	14 years
4. Son Rohit	19.9.1979	10 years

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Raj Kumar Singh Bhadoria

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His marriage with Sheela Bhadoria was solemnised by Hindu riti, i.e. by seven Pheras and 4 Yagyan. Kanyadan was taken by the brother of Sheela Bhadoria Shri V.Kumar. The invitation card is enclosed as Annexure.B. The marriage was solemnised on 8.7.1973 (when the petitioner was in Government service) at the age of 27 years and the age of my legally wedded wife Sheela Bhadoria was 23 years and she was also in Government service on that date.

It was my first solemnised valid marriage to the best of my knowledge and belief.

3. That on a complaint made by one Shri Shiv Gorind Singh, preliminary investigations to ascertain the facts were made through Collector of Etawah. On his orders Superintendent of Police Etawah forwarded a report dt. 25.6.1986 (Annexure (C) vide his endorsement dt. 26.6.86. In report of Station Officer Budpura Gr.No.223 dt. 16.6.86 Annexure (C) that their was second marriage. This report is contradictory and not very reliable on the basis of which the severe action of compulsory retirement from service was taken against the petitioner. Since there was no valid solemnisation of marriage in 1960 with any Drupdi Devi, she cannot be designated as spouse. The age of the petitioner in 1960 was only 14 years as is evident from service record. The date of birth of one Raj Rani as per family Register annexure (D) has been shown as 9.2.52. This name appears at Sr.No.10. The name of Raj Rani has been shown as wife of Raj Kumar Singh not wife of Raj Kumar Bhadoria. Thus the age of the said Raj Rani was 8 years in 1960. Only on such faque, fictitious

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entries in family Register no one can be spouse of R.K.Bhadoria without a solemnisation of valid marriage.

4. That for validity of marriage in Hindus, there should be two ceremonies :

- (a) invocation before the secret fire, and
- (b) Saptapadi that the taking of seven steps by the bride and the bridegroom before the secret fire.

The petitioner has not solemnised any marriage in 1960 nor he has knowledge or remember.

The enquiry officer at page 4 of his report has himself stated that "No witnesses were produced by the prosecution side." The Enquiry Officer has stated himself in his Enquiry Report (Annexure A) that there is the name of one Raj Rani Shown as his wife. Raj Rani is the name of his first alleged wife nor the second wife. Only such entries in Annexure 'D' Family Register cannot establish that there was solemnisation of marriage and one named Drupdi or Raj Rani is the spouse of the petitioner or spouse living on 6.7.73 when actual marriage was solemnised with Sheela Bhadoria.

Solemnise means in connection with the marriage to celebrate the marriage with proper ceremonies and in the due form. Unless the marriage is celebrated or performed with proper ceremonies and due form, it cannot be ~~said~~ said to be solemnise. Unless there was sufficient evidence of marriage in 1960 with Raj Rani or Drupdi, no one can be spouse of the petitioner.

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5. That Drupdi Devi and others were called to examine but none was produced to prove the marriage in year 1960. The allegation ~~was~~ against the law without solemnisation, if any, marriage with a boy of 14 years and with a girl of 8 years without the essential ceremony is not a marriage. The minor of 14 years and 8 years has no consciousness of mind for marriage. The petitioner had never any conjugal relationship with any Drupdi or Raj Rani in his life nor any one is legally wedded wife of the petitioner except Smt. Sheela Bhadoria whose name is entered in the service book and is legally my spouse.

6. The Enquiry Officer has correctly stated that Drupdi Devi is staying with the elder brother Sri Virendra Singh widower and enjoying full protection. He is maintaining Drupdi Devi or Raj Rani and the child from the ancestral property of the officer. Actually Sri Virendra Singh widower is maintaining Drupdi or Raj Rani as his keep. She has no grouse during all these years i.e. from 29 years. She has no complaint from the petitioner for remarriage or for maintenance.

P 52

7. The Voters list and family register on which the charges were imagined were not reliable. The statement of Ram Datt Awasthi A.D.O. (Annexure F) is corroborative evidence to prove that these lists (Annexures D and E) Voters List and Family Register are not prepared after door to door visit.

8. That the petitioner had never any conjugal relations or cohabited with any Drupdi Devi or

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Raj Rani in his life time and no one is the spouse living on the date of marriage i.e. 8.7.1973 or afterwards.

9. That the petitioner has requested to provide copies of relevant documents, both ~~there~~ request was denied vide letter No.KA/A5/DCO/UP/E-2 2660 A-G dated June 7, 1988 and thus the petitioner was deprived from the reasonable opportunity to defend his case as provided under the rules.

10. That since ~~the~~ Smt. Drupdi Devi or Raj Rani is not the spouse by proof of any valid ceremony of marriage in the year 1960 at the age of 14 years and 8 years, the petitioner can not be charged guilty for spouse living on the date of valid marriage on 8.7.1973 when actual marriage was solemnised.

11. That any son if born in 1968 is not the son for the petitioner and is not born with the wed-lock of the petitioner or any Drupdi or Raj Rani. In the absence of any positive evidence of marriage or wedlock the son Satendra cannot be proved as a son of the petitioner. In fact Satendra is the son of Drupdi or Raj Rani with the Wedlock of Shri Virendra Singh with whom she is living since 29 years. The only entries in the voters list or family register is not conclusive ~~pr~~ evidence to prove that Satendra is the son of R.K.Bhadoria who has never access or visited his native place and has only stayed at Kanpur or Meerut or at Lucknow since 1964.

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12. That the charges against the petitioner and his legally wedded wife Smt. Bhadoria were initiated in a common proceeding but the petitioner was only seriously punished without any fault and he has been compulsorily retired from service vide Annexure 'A' from the date of service of above order which delivered on 3.5.1989. The petitioner is thrown out of service in these hard days.

13. That the action has only been taken on the complaint of a third person not known to the petitioner. There is no complaint from any Drupdi Devi or Raj Rani or from my wife Smt. Sheela Bhadoria. Such harsh action will encourage the outsiders' interference in Govt. administration.

14. That the petitioner has a daughter aged 14 years and a son aged 10 1/2 years studying in Class VIII and V in Loreto Convent School. Their life will be spoiled in case the petitioner will not be restored to employment.

15. That the petitioner is very loyal and obedient to administration and has worked very sincerely and honestly. The annual confidential report entries given in the past may kindly be perused before considering this appeal.

16. That under some mis-apprehension about the authority empowered to dispose of his appeal, the petitioner filed an appeal dated 17.6.1989 (last date of limitation for filing of appeal against an order of punishment under Rule 6 of the CCS(CA) Rules 1965) before the Secretary Ministry of Home Affairs, Govt. of India, New Delhi

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and copies of the said appeal were endorsed to the Registrar General Census Operation, New Delhi and the Director of Census Operations Lucknow. Though the petitioner has not yet received any official communication from the Secretary, Ministry of Home Affairs in respect of his aforesaid appeal, he received a letter dated 30.6.1989 issued by the Deputy Director Census Operations, New Delhi informing him that the appeal lay before the President of India and not before the Secretary, Ministry of Home Affairs Government of India and he was required to submit the appeal to the President of India. However, the period of limitation prescribed for filing the appeal under CCS(CC&A) Rules i.e. 45 days having expired where after only the petitioner received the aforesaid letter, he is preferring the instant appeal now and he prays that this appeal may be entertained after condoning the delay, if any, that has occurred in filing of the instant appeal.

P R A Y E R

In view of the above your honour is prayed as follows:

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- (a) Consider my appeal sympathetically and revoke the above punishment.
 - (b) Decide my present appeal within 3 weeks if possible.

Yours faithfully,

Sd/- R.K.Bhadoria) Retd. Inv.
Census Directorate, U.P. Lucknow

TRUE COPY

TRUE COPY

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R.K. Bhadoria
R.K. Bhadoria

17 § {

In the Central Administrative Tribunal at Allahabad,
Circuit Bench, Lucknow.

M.P. No. 507/90(L)
Misc. Application No. _____ of 1991

on Behalf of Respondents.

In

Case No. 349 of 1990

Raj Kumar Bhadani

..... Applicant.

Versus.

Union of India & Others

..... Respondents.

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

1. That the written reply on behalf of the respondents could not be filed within the time allotted by the Hon'ble Tribunal on account of the fact that after receipt of the para-wise comments from the respondents, the draft-reply was sent to the department for vetting.
2. That the approved written reply has been received and is being filed without any further loss of time.
3. That the delay in filing the written reply is bona fide and not deliberate and is liable to be condoned.

WHEREFORE, it is prayed that the delay in filing the written reply may be condoned and the same may be brought on record for which the respondents shall ever remain grateful as in duty bound.

Lucknow :

Dated : 3/9

D. Chandra

(Dr. Dinesh Chandra)
Counsel for the Respondents.

Filed today
23/8/90

In the Hon'ble Central Administrative Tribunal
at All-ahabad, Circuit Bench, Lucknow

A 86

Case No. 349 of 1989 (L)

Raj Kumar Singh Bhadoria Applicant

Versus

Union of India & others Respondents

COUNTER REPLY ON BEHALF OF THE RESPONDENT No. 2

I, Ganga Sahai aged about 55 years son of
Sri Dhillian Singh, Head Assistant, Office of
the Director of Census Operations, Uttar Pradesh,
25, Nawal Kishore Road, Lucknow, do hereby
submit as under:-

1. That the officer above named has read the
petition filed by Sri Raj Kumar Singh Bhadoria
and has understood the contents thereof.
2. That the deponent is well conversant with
the facts of the case deposed hereinafter and
is ^{authorised} ~~competent~~ to file this counter reply on
behalf of all the respondents.
3. That the contents of paras 1 to 3 need no
comments.
4. That the contents of para 4(a) of the
application are admitted.

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5. That with regards to contents of para 4(b), it is stated that complaint dated 15.5.86 was received from one Shri Shiv Govind Singh, Senior Vice-President of Jan Kalyan and Mohalla Vikas Samiti, Neelkant Puri, Anande Nagar, Alambagh, Lucknow, against the petitioner.
6. That with regard to para 4(c) it is stated that the District Magistrate, Etawah, was requested to enquire into the allegations and to send report, No department enquiry was instituted at this stage.
7. That the comments made in paras 4(d) to 4(k) are admitted.
8. That in reply to contents of para 4 (L) and (M) it is stated that the appointing authority of the applicant was the Registrar General of India, New Delhi (Respondent No.2). The petitioner was working as Investigator in the office of Respondent No. 3. As such, the chargesheet dated 25.4.88 given by Respondent No.2 (Annexure 8 to Writ Petition) was served on the petitioner through Respondent No. 3. In the memorandum of the charges it was clearly indicated in para 2 that, the petitioner must submit his written statement of defence within 10 days of the receipt of the Memorandum of charges and

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intimate whether he would like to be heard in person, In para 3 of the Memorandum of charges he was informed that proceeding would be started only in respect of the charges that are not accepted by him. Therefore, the Petitioner should either clearly accept or deny the charges. The petitioner did not submit his written statement of defence within the prescribed time of 10 days nor he intimated whether he would like to be heard in person. He also did not clearly indicate whether he accepted or denied the charges. Instead he asked for copies of the documents cited as evidence in support of the charges, which could be supplied at the time of open enquiry.

9. That with regard to averments made in para 4(n) of the application, submissions made in para 8 above are iterated.
10. That in reply to para 4(o) it is submitted that the fact of his first wife not living with him and that she did not complain against the second marriage of her husband, does in no way justify the second marriage of the petitioner. The basic fact is that when the petitioner contracted the second marriage with mt. Heela Bhadoria he was having his first wife living and ^{thus} ~~this~~ contravened the provisions of Rule 21(2) of the Central Civil Service (Conduct) Rules 1964. Clause (1) of Section 5 of the Hindu Marriage Act introduces monogamy. It enacts that neither party must

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have a spouse living at the time of marriage.

The averment made by the petitioner that under the Hindu Marriage Act, the marriage of a boy below 18 years of age is illegal and as such the said marriage was a nullity in the eyes of law is misconceived. Age of the bridegroom or of the bride at the time of marriage did not render the marriage void or voidable, if otherwise it was duly solemnised. The marriage of the petitioner with his first wife was duly solemnised in accordance with the customary rites and ceremonies.

A marriage solemnised in violation of the requirements laid down in Clause (iii) of Section 5 of the Hindu Marriage Act is not void or even voidable. Contravention of this

Clause is no doubt, punishable as an offence under Section 18 of the Act. But a marriage may be annulled by a decree of nullity under Section 12 (1) (c) on the ground that consent of the petitioning spouse or the guardian in marriage of the petitioner was obtained by force or fraud. No averment has been made to this effect in the petition. Moreover, this rule will not operate if the petition is presented more than one year after the force ceases or the fraud is discovered.

11. That para 4(p) need no comments as it is a statement of facts.

12. That with regard to para 4(q) it is submitted that it was for the delinquent employee to ensure appearance of his defence witnesses before the Enquiring Officer. Incidentally the defence witnesses were the same who had confirmed

the marriage of the petitioner with his first wife in their written statements given to the District authorities.

13. That the contents of para 4(r) to 4(t) need no comments as the averments are statement of facts.

14. Parawise comments on various grounds indicated in para 5 are furnished below:

(A)- It has been admitted by the petitioner that he was married to Smt. Deepali Devi and she was living when he married Smt. Sheela. The fact was corroborated in the enquiry conducted by the District authorities. The departmental enquiry also found him guilty of marrying Smt. Sheela Bhadoria when his first wife Smt. Deepali Devi was alive.

(B)- Submissions made in para 10 above are re-iterated.

(C)- As discussed in para 10 above the petitioner's marriage with Smt. Deepali Devi is not void under the provisions of Section 5 of the Hindu Marriage Act as the same was solemnised in accordance with the provisions of Section 7 of the said Act. As such, contracting marriage with Smt. Sheela while his first wife Smt. Deepali Devi was living is a clear violation of Rule 21(2) of the Central Civil Services (Conduct) Rules, 1964.

(D) Marriage of the petitioner with Smt. Deepali Devi was not void.

(E) The written statement recorded at the time of the Enquiry and the report of the District authorities in this regard from different agencies were conclusive proof

of the fact that Smt. Deepali Devi is alive and the petitioner was married to ^{her} ~~him~~. This fact has been admitted in this petition itself.

(F)- In this connection it is stated that all the statements obtained during the course of enquiry made by the District authorities were made available to the ~~petitioner~~ petitioner during the course of disciplinary proceedings.

(G)- It was for the petitioner to ensure ~~a~~ appearance of his defence witnesses before the Inquiry Officer.

(H)- The marriage of the petitioner was contracted or performed with proper ceremonies and in due ~~form~~ ^{form} and is thus not void.

(I)- The averments do not lead to the conclusion that the Petitioner's first wife was not living when his second marriage with Smt. Meela was contracted.

(J)- The averment that Smt. Deepali Devi remained quiet and did not enter into a legal battle with the petitioner when he contracted second marriage will not make his marriage with Smt. Deepali void or illegal in the eyes of law.

(K)- The provisions of the Central Civil Service (Conduct) Rules, 1964 are applicable to every person appointed to a Civil service or the post in connection with the affairs of the Union of India and any violation will be liable to disciplinary action. Rule 21 (2) of the said Rules provides

that "no G-ovt. servant having a spouse living, shall enter into, or contract a marriage with any person."

(L)-(M)&(N) :- The averments are misconceived and are denied.

15. That the contents of para 6 and 7 of the application need no comments.
16. That in view of the submissions made in the above paragraphs, the relief sought for in paragraph 8 are not admissible.
17. That the contents of paragraph 9 to 12 of the application need no comments.
18. That in view of the submissions made in the foregoing paragraphs, the petition lacks merit and is liable to be dismissed.

Lucknow;

Dated;

Respondent.

VERIFICATION

I, the above named Respondent do hereby verify that the contents of paragraphs 1 toof this Counter Reply are true to the best of my personal knowledge,

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those of paragraphs -----are true
based on records and the contents of paragraphs.....
-----are believed by me to be
true on the basis of legal advice. That nothing
material fact has been concealed and no part of
it is false.

Signed and verified this the- - - - - day of
- - - - - , 1990 within the Court Compound
at Lucknow.

Lucknow;

Dated;

Respondent,

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD
Circuit Bench Lucknow

O.A. No. 349/89 (L)



Raj Kumar Singh Bhadoria ... Applicant

Versus

Union of India and others .. Respondents

REJOINDER AFFIDAVIT TO THE COUNTER REPLY
FILED ON BEHALF OF THE RESPONDENT NO.2
TO THE ABOVE APPLICATION.

I, Raj Kumar Singh Bhadoria, aged about 45 years son of late Chatur Singh Bhadoria, resident of Azad Nagar, Sanjay Gandhi Marg, Lucknow, the deponent do hereby make oath and state as under:

1. That (the deponent is the applicant himself in the above mentioned case and as such he is fully conversant with the facts deposed to here-in-after.
2. That the deponent has read and understood the contents of the counter reply, to be hereinafter called the 'reply' filed on behalf of respondent No.2

Filed today

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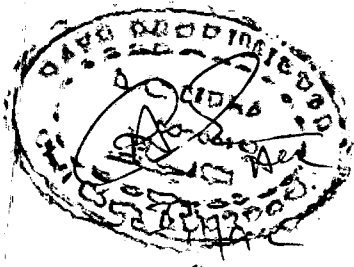
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by Shri Ganga Sahai Head Assistant, office of the Director of Census Operations U.P. Lucknow and he states that he is fully competent to reply to the contents thereof parawise as under:

3. That the contents of paragraphs 1,2, 3 and 4 of the reply need no comments from the deponent.

4. That the ~~contents~~ contents of paragraphs 5,6 and 7 of the reply need no comments from the deponent.

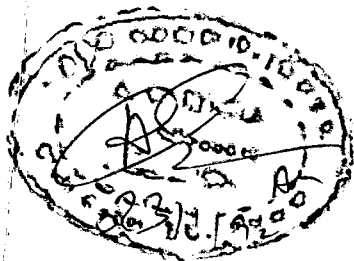
5. That the contents of paragraph 8 of the reply are not admitted as stated and it is submitted here that the deponent could not submit a reply to the charge sheet in the absence of the documents, on the basis of which the charge sheet was issued, being supplied to him. The deponent in pursuance of the note appended to sub rule (11) of rule 14 of the Central Civil Services(Classification, Control and Appeal)Rules had a right to demand copies of the documents on the basis of which the charge sheet was issued before submitting his reply to the charge sheet and it was the duty of the Inquiry Officer to have supplied the deponent the copies of the said documents. However, though in the instant case the deponent did demand copies of the documents on the basis of which the charge sheet was issued against him, but the Inquiry Officer only supplied him only 5 of the 8 documents required by him and no reasons were assigned for the deponent



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not being supplied with the remaining copies of the documents. In fact, by the letter dated 7.6.1988, issued by the Director of Census Operations, U.P. Lucknow (contained in Annexure No.17 of the application) the only ground on which it was refused to supply the copies of the documents requested for by the deponent was that under sub rule (4) of rule 14 of the Central Civil Services(Classification, Control & appeal)Rules the deponent was not entitled to be supplied with the said documents. However, there is nothing in sub rule (4) of the rule concerned which prohibits the Inquiry Officer from supplying the documents requested for by a charged official and in fact the note appended to sub rule (11) of the said rules specifically enjoins upon the Inquiry Officer to supply the charged official the copies of the documents requested for by him.



6. That the contents of paragraph 9 of the reply are not admitted as stated in view of the averments made herein above.

7. That the contents of paragraph 10 of the reply are not admitted as stated and it is submitted here that section 5(iii) of the Hindu Marriage Act specifically says that a marriage with a Hindu Female who is below 18 years of age cannot be solemnised and if(it is) solemnised

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such a marriage is absolutely illegal and is no marriage in the eyes of law. The contention of the deponent of the reply that such a marriage is not void is absolutely misconceived as when a marriage is solemnised in express contravention of the conditions specified in the Hindu Marriage Act, such marriage is not a marriage in the eyes of law and it was for that reason that the Legislature thought it fit not even to declare such a marriage void under Section 11 of the Hindu Marriage Act. Since it is admitted case of the parties that the marriage of the deponent with Smt. Dropdi Devi was solemnised in contravention of Section 5 (iii) of the Hindu Marriage Act as Smt. Dropdi Devi was below 18 years of age at the time of marriage with the deponent, such a marriage is no marriage in the eyes of law and Smt. Dropdi Devi could not be treated to be a legally wedded wife of the deponent for the purposes of rule 21 (2) of the Central Civil Service (Conduct) rules. In view of the above, the charge levelled against the deponent to having contracted a second marriage during the life time of his first wife is baseless. In this connection, it is pertinent to point out here that Sub rule (2) of rule 21 of the Central Civil Services (Conduct) Rules says that a Government Servant who has a wife living cannot contract a second marriage, it pre-supposes that the wife who is living is a legally and validly wedded wife of the Govt. servant who is charged with having contracted a second marriage. If the marriage with the first wife



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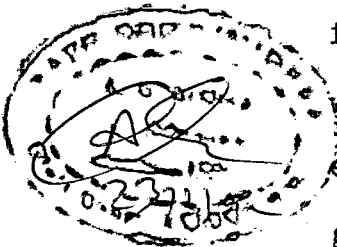
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is illegal, she cannot be a wife for the purposes of sub rule(2) of Rule 21 of the Central Civil Services (Conduct) Rules and no proceedings can be conducted against the Government servant for having contravened the said provisions.

8. That the contents of paragraph 11 of the reply need no comments from the deponent.

9. That the contents of paragraph 12 of the reply are not admitted as stated and it is submitted here that the Inquiry Officer should also have made efforts to procure the attendance of the witnesses requested for by the deponent in his defence the contention raised in the impugned para that the witnesses requested for by the deponent were the same ^{who had} ~~should have~~ given their statements before the District authorities, can not furnish any valid ground for not summoning the said witnesses as the deponent had a right to cross examine the witnesses concerned on the statement given by them before the District Authorities which opportunity to the deponent was denied due to the failure of the Inquiry Officer to summon the witnesses concerned. Even assuming for arguments sake that it was the duty of the deponent to have produced the witnesses he wanted to examine in his defence, it is submitted that the Inquiry Officer ought to have given an opportunity to the deponent to produce the said witnesses after they failed to appear on the two dates fixed and also should



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have issued a warning to him that^{on}the failure of the witnesses concerned to appear the proceedings would be conducted without waiting for the witnesses to appear. No such procedure was adopted by the Inquiry Officer and when the witnesses concerned failed to appear on 2 dates, the Inquiry Officer proceeded to conclude the proceedings without affording any further opportunity to the deponent to produce the witnesses concerned.

10. That the contents of paragraph 13 of the reply need no comments from the deponent.

11. That the contents of paragraph 14(a) are not admitted in view of the averments made herein above.

12. That with regard to the contents of paragraph 14(b) of the reply, the averments made herein above are re-iterated.

13. That the contents of paragraph 14(c) are denied.

14. That the contents of paragraph 14(d) of the reply are denied.

15. That the contents of paragraph 14(e) of the reply are denied.

16. That the contents of paragraph 14(f) of the reply it is submitted that in the absence of the



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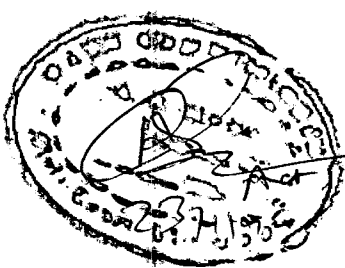
examination of the witnesses who had given their statements before the District Authorities being recorded by the Inquiry Officer and the deponent being given an opportunity to cross examine them, the said statements ~~xx~~ could not be relied on for any purpose.

17. That the contents of paragraph 14(g) of the reply are denied.

18. That the contents of paragraph 14(h) of the reply are not admitted as stated in view of the averments made herein above.

19. That the contents of paragraph 14(I) of the reply are denied.

20. That the contents of paragraph 14(J) of the reply are irrelevant hence denied.



21. That the contents of paragraph 14(K) of the reply need no comments from the deponent in view of the averments made herein above.

22. That the contents of paragraphs 14 (L), (M) and (N) are denied.

23. That the contents of paragraph 15 of the reply need no comments from the deponent.

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24. That the contents of paragraph 16 of the reply are denied.

25. That the contents of paragraph 17 of the reply need no comments from the deponent.

26. That the contents of paragraph 18 of the reply are denied. The application is liable to be allowed with costs, in favour of the deponent.

Lucknow, dated
23rd Jan 1992
u


Deponent

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 26 of this affidavit are true to the knowledge of the deponent. No part of this affidavit is false and nothing material has been concealed. So help me God.

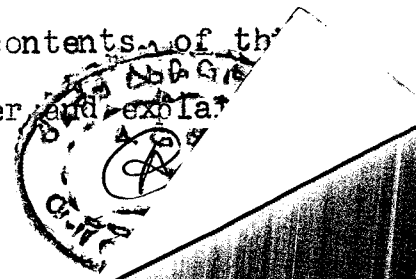

Deponent.

I identify the deponent who has signed before me.


(Amit Bose) Advocate

Solemnly affirmed before me on 23/1/92
at 10.30 a.m./p.m. by the deponent
Raj Kumar Singh Bhadoria, who is identified by
Shri Amit Bose, Advocate.

I have satisfied myself by examining the deponent that he understands the contents of the affidavit which have been read over and explained to him by me.



व अदालत श्रीमान

[वादी अपोलान्ट]

प्रतिवादी [रेस्पाडेन्ट]

महोदय

Central Adversity Table

Local Bar, Luck

वकालतनामा

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टिकट

वादी (अपोलान्ट)

Beikun Singh Bhadani वनाम प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा 359 सन् 1984/2 पेशी को ता०

१६ ई०

उपर लिखे मुकद्दमा में अपनी ओर से श्री J. Prakash Chandra

Addl. & Gen. Sdny. Court Lucknow

वकील

महोदय

एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देखा हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया लसूब करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होना मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं वा किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

नाम अपोलान्ट
मुकद्दमा नं०
नाम फरीकसानी

Accepted
J. Prakash Chandra

Virendra Kumar

हस्ताक्षर VIRENDRA KUMAR

निदेशक, जनपद कार्यालय
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साक्षी (गाह) ... साक्षी (गवाह) ...

दिनांक ... महीना ... सन् १६ ई०

स्वीकृत