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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. NO. 908/2002

Shri Karanlal Gharde, s/o.
Shri M.G. Garde Aged about
60 years, Working as SSS
COD, Jabalpur (Empl. P. No.
6953605), R/o. Amrit Apartment,
Flat No. 404, III Floor, Opposite
Methodist Church, Near Narmada
Road, Gorakhpur, Jabalpur M.P.

... Applicant

V e r s u s

1. Union of India,
Through Secretary,
Ministry of Defence,
New Delhi.

2. The Officer-in-Charge,
A.O.C. (Records),
Secunderabad.

... Respondents

Counsel :

Shri V.K. Singh for the applicant.

Coram :

Hon'ble Shri Justice N.N. Singh - Vice Chairman.
Hon'ble Shri R.K. Upadhyaya - Member (Admnv.).

O R D E R

(Passed on this the 28th day of January 2003)

By Hon'ble Shri Justice N.N. Singh - Vice Chairman :-

The applicant has filed this Original Application for quashing the order dated 21/02/2002 (Annexure A-1) passed by respondent No. 2, by which the applicant was compulsorily retired from service.

2. Shortly stating, the case of the applicant is that he was departmentally proceeded for having contracted plural marriage with Miss. Atrika Gajbhiye without taking divorce from the Court of law from his legally wedded wife Smt. Usha Gharde, in contravention to Rule



21(1) & (2) of CCS (Conduct) Rules, 1964. The case of the applicant is that he was served ^{with} a copy of memorandum of charge, Annexure A-2, dated 16/10/2000 and that he filed his reply dated 10/08/2001 (Annexure A-3), but the enquiry officer held him guilty of charge without supplying copy of preliminary enquiry to enable him to cross-examine the witnesses effectually. It was claimed that he was denied the reasonable opportunity to defend himself and that the complaint and copies of statement of witnesses in preliminary enquiry were not supplied to him. It was also alleged that the enquiry was not held in accordance with procedure and he had no chance to cross-examine the witnesses and to rebut the evidence given against him. The applicant also challenged the action of the enquiry officer in examining him and ^{putting} for searching questions.

3. We have heard Shri V.K. Singh learned counsel for the applicant. Shri Singh contended that the applicant was prosecuted on the charge of bigamy and in the Criminal Court his first wife, who had initially made allegation against him, withdrew the allegation and his so-called second wife also appeared before the Court and denied the marriage to have taken place. Shri Singh contended that on that basis this departmental enquiry should also have been dropped as ^{first} his wife had withdrawn the allegation of bigamy against him.

3.1. From perusal of Annexure A-1, the order passed by the disciplinary authority dated 21/02/2002, it is mentioned therein that during the course of oral enquiry held on 29/05/2001, the applicant agreed that he had contracted plural marriage with Miss. Atrika Gajbhiye

on 01/03/1992 (question 5, para 32 of the oral enquiry proceedings). It is also mentioned therein that the applicant is paying Rs. 1,000/- per month as maintenance allowance to his first wife Smt. Usha Gharde as per order dated 30/03/2001 of First Class Judicial Magistrate, Jabalpur. In his reply (Annexure A-3) the applicant himself has mentioned that divorce suit was pending in the Court since 1995. The learned counsel for the applicant did not challenge the correctness of the admission of the applicant for having contracted plural marriage with another lady, in course of the enquiry. Thus the fact which appears from annexures filed by the applicant is that the applicant had admitted to have contracted marriage on 01/03/1992 with Miss. Atrika Gajbhiye in the life time of his first wife Smt. Usha Gharde to whom he is paying Rs. 1,000/- as maintenance, as per order of the First Class Judicial Magistrate, and from his reply at Annexure A-3 it ^{also} appears that a divorce suit was pending in the Court since 1995. The contention of learned counsel for the applicant that the departmental proceeding should have been dropped in view of the withdrawal of complaint by the first wife of the applicant ^{in criminal case} / is not tenable in view of the provisions in Rule 21 (1) and (2) of CCS (Conduct) Rules, 1964 which runs as under :

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

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

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

(b) there are other grounds for so doing.

When the applicant himself admitted to have contracted plural marriage in the course of enquiry, no question of supply of documents in the preliminary enquiry arose and having admitted plural marriage, the applicant cannot challenge the departmental enquiry which was in accordance with the rules. Having admitted to have violated the provisions of Rule 21 (1) and (2) of CCS (Conduct) Rules, 1964, the conduct of departmental enquiry cannot be challenged and the punishment awarded also does not appear to be excessive.

4. In the result we find no merit in this Original Application and it is accordingly dismissed at admission stage itself.

(Handwritten signature)

(R.K. UPADHYAYA)
MEMBER (A)

(Handwritten signature)

(N.N. SINGH)
VICE CHAIRMAN

"SA"

पूरांकन सं ओ/न्या.....जबलपुर, दि.....
पत्तिलिपि आये दिना.....
(1) साक्षी, वका...
(2) आदेश...
(3) प्रत्यक्षी...
(4) दंड्यमल, कोष...
सूचना एवं आवश्यक कोष...

V.K. Singh, Addl

(Handwritten signature)

29.1.03

Issued
on 29.1.03