

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH
CIRCUIT BENCH AT RANCHI
OA/051/00201/16**

Date of Order: 07/08/2018

C O R A M

**HON'BLE MR. K.N. SHRIVASTAVA, ADMINISTRATIVE MEMBER
HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER**

Dr. Shishir Kumar Singh Munda, son of Late M.N.S. Munda, resident of Village- Kasam Buridih, P.O.- Salgadih, P.S.- Tamar, District- Ranchi.
..... Applicant.

- By Advocate(s): - Mr. Rajesh Kumar
Mr. Apporva Singh
Mr. Gautam Raj

-Versus-

1. The Managing Director-cum-Chief Executive Officer, Steel Authority of India Limited, Bokaro Steel Plant, Bokaro Steel City, P.O. and P.S. Bokaro, District- Bokaro.
2. Director (Medical and Health Services), Steel Authority of India Limited, Bokaro Steel Plant, P.O. & P.S. Bokaro, District-Bokaro.
3. Assistant General Manager (Pers-OD), Steel Authority of India Limited, Bokaro Steel Plant, Bokaro Steel City, P.O. & P.S.- Bokaro, District- Bokaro.

..... Respondents.

By Advocate(s): - Mr. V.K. Dubey for Mr. Indrajit Sinha & Mr. Bibhash Sinha.

ORDER
[ORAL]

Per Mr. K.N. Shrivastava, A.M.:- The applicant was working as Assistant Director, Medical and Health Service, Medical Department, Bokaro Steel Limited, Bokaro (SAIL). On 13.05.2011 (Annexure A/1) charge memo came to be issued to him. The statement of article of charges reads as follows:-

“ It has been reported that Dr. Shishir Kumar Singh Munda, Asstt. Had married Ms. Neelima Kumari on 14.06.1993, but had not declared his marriage with her. Subsequently, he married Ms. Sangeeta Dadel, Staff no. 691156, Nursing Sister, BGH. Thus, Dr. Shishir Kumar Singh Munda has entered into marriage with another person when he has a spouse living. This act on his part is a serious act of misconduct.

Thus, Dr. Shishir Kumar Singh Munda failed to comply with the provision that “no employee, having a spouse living, shall enter into, or contract, a marriage with any person” and thereby contravened Rules 18.0(2) of the SAIL Conduct, Discipline and Appeal Rules.”

2. Pursuant to the charge memo, disciplinary proceedings were started against the applicant. An Enquiry Committee was set up. The Enquiry Committee comprised of Shri A.K. Jha, Manager (PERS-RECTT) and Dy. Chief Manager (Central technical Services). The applicant participated in the enquiry proceedings. The Enquiry Committee submitted its report on 21.09.2012 in which it concluded that the charges against the applicant stood proved.

3. The applicant was provided with a copy of the Enquiry Committee report for his comment/representation. He submitted his representation. However, the Disciplinary Authority not satisfying with the explanation of the applicant and acting on the findings of the Enquiry Committee, imposed the penalty of dismissal from service on the applicant vide its order dated 19.12.2012 (Annexure A/7).

4. Aggrieved by the Annexure A/7 penalty order, the applicant has approached this Tribunal in the instant OA praying for the reliefs as mentioned in para 8(1) supra.

5. Pursuant to the notice issued, the respondents have filed their reply, to which a rejoinder was filed by the applicant.

6. On completion of pleadings the case was taken up for hearing the arguments of the learned counsel for the parties today.

7. Shri Rajesh Kumar, learned counsel for the applicant drew our attention to Annexure A/4 order dated 13.05.2005 in case No. C 27/2000 Trial No. 301/2006 titled Smt. Nilima @ Sumitra Kumar Vs. Bhadra Kumari & three others. wherein the applicant was acquitted of charges levelled by Smt. (Dr.) Nilima Kumari. He vehemently argued that the applicant had never married Dr. Nilima Kumari and that the Enquiry Committee has come to a very hasty and wrong conclusion that the applicant had married her. He further argued that no credible evidence could be produced by Dr. Nilima Kumari in respect of her marriage with the applicant, which according to her, was solemnized on 14.06.1993. The second argument of the learned counsel for the applicant was that punishment of dismissal from service inflicted on the applicant is too harsh.

8. Shri V.K. Dubey, learned counsel for the applicant argued that the applicant has been dismissed from service on the charge of bigamy which has been conclusively proved during the

course of enquiry and the Enquiry Committee has given its findings to that effect. He thus argues that the applicant by marrying a second lady when his first wife Dr. Nilima Kumari is still alive, has violated the provisions of Rules 18.0(2) of the SAIL Conduct, Discipline and Appeal Rules and, as such, the penalty inflicted on him is proportionate to his misdemeanor. He further so stated that charge against the applicant in Case No. C 27/2000 Trial No. 301/2006 was of physical torture and not relating to his marriage with Dr. Nilima Kumari. The very fact that the Court framed charges against him u/s 498 of IPC, would go to prove that the Court had acknowledged the marriage of the applicant with her.

9. We have considered the arguments of the learned counsel for the parties and also perused the pleadings.

10. The factum of the applicant having married second time with a lady Ms. Sangeeta Dadel when his first legally wedded wife Ms. (Dr.) Neelima Kumari is alive has been established during the course of enquiry and the Enquiry Committee has given its findings to that effect. Hence, we do not find any flaw in the penalty order for the reasons stated therein.

11. Shri Rajesh Kumar, learned counsel for the applicant tried to impress the Tribunal that the Enquiry Committee has not correctly evaluated the evidence and its findings are not based on credible evidence and facts. We, however, made it clear to Shri Rajesh Kumar that the Tribunal cannot indulge in re-appreciating the

evidence which was placed before the Enquiry Committee. The scope of judicial review is highly limited. Stipulating parameters for judicial review in disciplinary proceeding matters, Hon'ble Supreme Court in the matter of **B.C. Chaturvedi Vs. Union of India & ors** [1996 AIR 484] has held as under:-

“Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of [Evidence Act](#) nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.”

12. Furthermore, the Hon'ble Apex Court in the case of **M.V. Bijlani Vs. Union of India & Ors.** [(2006) 5 SCC 88] has observed that in disciplinary proceedings preponderance of probability to prove the charges on the basis of available materials is sufficient and that the charges need not be proved conclusively. The Hon'ble Apex Court has observed as under:-

“It is true that the jurisdiction of the court in judicial review is limited. Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidences to prove the charge. Although the charges in a departmental proceedings are not required to be proved like a criminal trial, i.e., beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with.”

13. Placing reliance on the ratio of law laid down by the Hon'ble Supreme Court in the aforementioned judgments, we do not find any flaw in the impugned order. Accordingly, this OA is dismissed and the order dated 19.12.2012 (Annexure A/7) is hereby upheld. No order as to costs.

[Jayesh V. Bhairava]
Judicial Member
Srk.

[K.N. Shrivastava]
Administrative Member