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APHC010455992014



**IN THE HIGH COURT OF ANDHRA PRADESH
 AT AMARAVATI
 (Special Original Jurisdiction)**

[3545]

TUESDAY, THE SEVENTEENTH DAY OF FEBRUARY
 TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

WRIT APPEAL NO: 692/2014

Writ Appeal under clause 15 of the Letters Patent Appeal preferred against the Order dated 18.11.2013 passed in WP No. 3371/2008.

Between:

1.BONTHU NARASIMHA SWAMY, S/O.VEERASWAMY, HINDU, JUNIOR ACCOUNTS OFFICER (STOOD RETIRED DURING PENDENCY OF W.P.))/0. SUPERINTENDING ENGINEER, TL& SS CIRCLE, AP TRANSCO, BOMMURU, RAJAHMUNDRY EG.DT R/O. D NO 5-426, 1/A, 8TH STREET, NETAJINAGAR, RAJAHMUNDRY (PO) 533101 EG DIST.,

...APPELLANT

AND

1.THE A P POWER DISTRIBUTION CO LTD, REP. BY THE CHAIRMAN & MANAGING DIRECTOR, APTRANSCO VIDYUT SOUDHA, SOMAJIGUDA, HYDERABAD.

2.THE JOINT MANAGING DIRECTOR HRD COMML REFORMS, RA & IT) TRANSMISSION CORPORATION OF ANDHRA PRADESH LIMITED, VIDYUT SOUDHA, HYDERABAD.

3.THE CHIEF ENGINEER TLSS SS ZONE, A.P. TRANSCO, VISAKHAPATNAM.

4.THE SUPERINTENDING ENGINEER TLSS SS CIRCLE, A.P. TRANSCO, RAJAHMUNDRY, EAST GODAVARI DISTRICT.

5.THE SUPERINTENDING ENGINEER/ENQUIRIES ENQUIRY OFFICER, TRANSMISSION CORPORATION OF ANDHRA PRADESH LIMITED, ROOM NO. 517, B BLOCK, VIDYUTH SOUDHA, HYDERABAD.

...RESPONDENT(S):

IA NO: 1 OF 2014(WAMP 1449 OF 2014)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 112 days in preferring the Writ Appeal against the impugned order dated 18-11-2013 passed by the learned single judge of this Hon'ble court by dismissing the Writ Petition No. 3371/2008, for registering the Writ Appeal so that it may be adjudicated on merits in the interest of justice. Otherwise, the petitioner will suffer irreparable loss and damage.

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased To fix an early date for hearing the appeal and pass

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased To receive the above additional material papers, Rules and Law as relied on by the petitioner for consideration in the interest of justice

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to condone the delay of 531 in representing the IA.SR.No. 44165/2021 in the interest of justice

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to bring on Record proposed 2 to 4 L.R.s of sole appellant as 2 to 4 appellants in the Writ Appeal for its final adjudication on merits in the interest of justice

Counsel for the Appellant:

1.P NARASIMHA RAO

Counsel for the Respondent(S):

1.V V SATISH (SC for APEPDCL)

2.ANUP KOUSHIK KARAVADI(SC FOR APTRANSCO)

The Court made the following:

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

And

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

WRIT APPEAL No.692 of 2014

JUDGMENT: ((*Per Hon'ble Sri A. Hari Haranadha Sarma*)

This appeal is directed against the order dated 18.11.2013 passed by the learned Single Judge of this Court in W.P.No.3371 of 2008. Appellant No.1 is the unsuccessful writ petitioner. Upon his demise during the pendency of the writ appeal, appellant Nos.2 to 4 were brought on record as his legal representatives.

2. For the sake of convenience, parties will be hereinafter referred to as the writ petitioner and the respondents, with reference to their description in the writ petition.

3. The termination of the writ petitioner from the service under order dated 29.01.2008 passed by the 2nd respondent is questioned in the writ petition, as violative of Articles 14 and 21 of the Constitution of India.

4. The charge leading to dismissal of the petitioner from the service is that he has indulged in immoral conduct by marrying more number of times, while another wife is alive, and not taking care of his wife one Smt. Satyavathi.

5. The case against the petitioner is that one Smt.Satyavathi lodged a complaint against the writ petitioner alleging that the petitioner had earlier

married one Smt.Ramalakshmi, who is her sister, and that they were residing at Donkarai, where the petitioner was working. It is further alleged that Smt. Satyavathi, went to Donkarai in the year 1981, where that the petitioner developed illegal intimacy with her and subsequently married her. The said Smt.Satyavathi had also obtained household supply card issued from the Mandal Revenue Officer, Alamuru, along with writ petitioner. It is also alleged that the writ petitioner is not taking care of her. Earlier, the writ petitioner had married one Baby Padmavathi without the knowledge of the complainant-Smt. Satyavathi, he has also married one Lakshmi. The complaint of Smt.Satyavathi has resulted in further enquiry and consequently charged against the petitioner that he has indulged immoral conduct of marrying more number of times, while his spouse is alive. A detailed enquiry was conducted and the Enquiry Officer found that the writ petitioner is guilty of Regulation 4(xxi) of the APSEB Employees Revised Conduct Regulations (hereinafter for short the 'Regulations'). A show-cause notice was issued on 01.10.2007 and the petitioner submitted his explanation on 01.12.2007. Thereafter, the final orders were passed on 29.01.2008, dismissing the petitioner from service, which is questioned in the writ petition.

6. The contentions of the writ petitioner are that

- (i) Charges are not true.
- (ii) The petitioner has put in 37 years of long service.

(iii) G.O.Ms.No.2, General Administration (SER.C) Department, dated 04.01.1999, was adopted by the TRANSCO and the same is not binding on the petitioner.

(iv) There is no proof of bigamy.

(v) The complainant/Smt.Satyavathi is wife of Manyam Balaiah. The allegation that he has married one Ramalakshmi, sister of Satyavathi, is not correct.

(vi) Smt.Satyavathi failed in litigation covered by M.C.No.2 of 1994 on the file of learned II Additional Judicial First Class Magistrate, Rajahmundry, under Section 125 of the Code of Criminal Procedure and Domestic Violence Case and in a litigation covered in O.S.No.247 of 1997 on the file of learned District Munsif Court, Alamuru, filed by one Relangi Venkata Swamy, in that one Smt.Satyavathi was described as wife of Balaiah. She also described herself in her deposition in appeal proceedings as wife of Balaiah. Therefore, Satyavathi is never wife of petitioner.

(vii) Further, specific case of the petitioner is that he married one Baby Padmavathi on 17.08.1984. Subsequently, as she was mentally ill, after obtaining customary divorce, he has married one Lakshmi on 12.12.1999. Before the enquiry authority, father of Baby Padmavathi admitted about the divorce between Baby Padmavathi and the writ petitioner. Therefore, the allegation, as the petitioner indulged in series of marriages, is not correct.

7. Learned Single Judge has referred to Regulation 4(xxi) of the Regulations and while dealing with the contention of the writ petitioner, the learned Single Judge ignored the claim of Smt. Satyavathi regarding her marital status as the wife of the writ petitioner, but took note of the admitted two marriages of the petitioner i.e., one with Baby Padmavathi and the second with Lakshmi and found that in the absence of acceptable evidence establishing a customary divorce between the petitioner and Baby Padmavathi, the charge of bigamy stands established. Accordingly, the learned Single Judge did not interfere with the punishment imposed against the petitioner and dismissed the writ petition.

8. Arguments for petitioner:

(i) Learned counsel for the petitioner argued that the petitioner belongs to Setti Balija community and that his marriage was with Padmavathi dissolved on 21.01.1991, due her illness and mental disorder and that divorce was taken in the presence of elders of his caste and as per caste customs. Therefore, charge of bigamy not proved.

(ii) He has further submitted that the evidence of Sri L.Satyanaraya, father of Baby Padmavati, particularly during cross-examination by petitioner, shows that he has admitted about the divorce given to his daughter. The learned Single Judge ought to have accepted the evidence, observing that validity of customary divorce beyond the scope of departmental enquiry and such questions can be decided only by competent civil Court.

(iii) It is further submitted that there are no disputes between the petitioner and Baby Padmavathi regarding their marriage and dissolution thereof, and that it ought to have been held that customary divorce among the Seti Baliya community is not opposed to public policy.

(iv) When the allegation of One Smt.Satyavathi is not proved, about their marriage, there lies no case and the order of the learned Single Judge is liable to be set aside.

(v) Learned counsel for the petitioner relied on the observations of the Division Bench of this Court in ***Silaparasetti Ramu v. Lalam Ramanamma @ Rajani***¹ for the proposition as to acceptability of the customary divorce and reference was also made to judgment of this Court in ***K.Suramma v. K.Ramayamma and others***² and the judgment of the Hon'ble Apex Court in ***Yamanaji H.Jadhav v. Nirmala***³.

9. Learned counsel for the respondents submits that the orders of learned Single Judge are well reasoned and there is clear violation of conduct 4(xxi) of the Regulations. The enquiry was conducted following due process by giving all opportunities to the petitioner on all aspects. There is clear evidence indicating that the petitioner has opted for bigamous marriage and the defence of customary divorce etc., are neither proved nor tenable.

10. Perused the record.

¹ 2013 (5) ALT 485 (D.B.)

² (2002) 2 ALT 65 (D.B.)

³ (2002) 2 SCC 637

11. Thoughtful consideration was given to the arguments advanced by both sides.

12. Points that arise for determination in this appeal are:

(1) Whether the order of the learned Single Judge dated 18.11.2013, passed in W.P.No.3371 of 2009, dismissing the writ petition and declining to interfere with the punishment imposed on the writ petitioner under the proceedings dated 29.01.2008 of the 2nd respondent, is sustainable in law or suffers from any irregularity warranting interference.

(2) What is the result of the Writ Appeal?

Point No.1:

13. (i) Regulation 4(xxi) of the Regulations clearly prohibits bigamous marriage, notwithstanding the permissibility of subsequent marriages under personal laws. The applicability of the said regulation to the writ petitioner is beyond doubt.

(ii) Admittedly, the petitioner has opted for marriage with one Lakshmi and prior to that he marriage Baby Padmavathi. The defence of the petitioner is that he has obtained customary divorce. The main argument of the petitioner is that disciplinary authority and the learned Single Judge ought to have appreciated the evidence of L.Satyanarayana, who is the father of Baby Padmavathi, particularly his admission as to the divorce between Baby Padmavathi and writ petitioner.

14. A reference to the statement of L.Satyanarayana, father of Baby Padmavathi, would indicate the following aspects:

(i) Marriage of Baby Padmavathi with the petitioner had taken place in the year 1985.

(ii) There were some disputes between them.

(iii) The petitioner was not looking after Padmavathi and not leading marital life.

(iv) The petitioner was living with some other women and

(v) For the reason that the petitioner was not looking after Padmavathi properly, she use to suffer mentally.

(vi) During cross-examination, the writ petitioner suggested that mental illness is suppressed at the time of marriage, for which the witness has denied and asserted that before marriage Padmavathi was mentally good and only due to the conduct of the writ petitioner she suffered from mental disorder.

(vii) The cancellation of marriage was due to Padmavathi might commit suicide.

15. The evidence of father of Padmavathi does not in any way suggest that divorce was obtained following the customary practice and that there was any such practice among the community.

16. The decisions relied on by the learned counsel for the petitioner pertains to the cases, where there was civil litigation and the validity of the marriage itself was in question. The method in which prevailing of a customary divorce in a community is to be proved.

17. The Hon'ble Apex Court in ***Yamanaji H.Jadhav v. Nirmala (supra-3)*** at paragraph No.7 held as follows:

“...As per the Hindu Law administered by courts in India divorce was not recognised as a means to put an end to marriage, which was always considered to be a sacrament, with only exception where it is recognised by custom. Public policy, good morals and the interests of society were considered to require and ensure that, if at all, severance should be allowed only in the manner and for the reason or cause specified in law. Thus such a custom being an exception to the general law of divorce ought to have been specially pleaded and established by the party propounding such custom since said custom of divorce is contrary to the law of the land and which, if not proved, will be a practice opposed to public policy. Therefore, there was an obligation on the trial court to have framed an issue whether there was proper pleadings by the party contending the existence of a customary divorce in the community to which the parties belonged and whether such customary divorce and compliance with the manner or formalities attendant thereto was in fact established in the case on hand to the satisfaction of the court. ...”

18. The evidence of father of Baby Padmavathi, on which the petitioner is relying on, is of no help to prove either the existence of custom or obtaining of divorce in terms of customary practice.

19. Further, learned counsel for the petitioner also relied on the observations of the Division Bench of this Court in ***Doddi Appa Rao (died) v. General Manager, Telecom, Rajahmundry and another***⁴ for the proposition that in Setti Balija community there is a custom to obtain divorce. When the employee face proceedings in terms of C.C.S. (Conduct) Rules, with the charge of bigamy, the defence of customary divorce was taken by the

⁴ 1999 (6) Alt 721 (D.B.)

petitioner/employee belonging to Setti Balija community. It was a case of following rituals and confirmation of said customary divorce by a civil Court in a suit. Obtaining of customary divorce and subsequently, confirmation of the same by the competent civil Court is a special circumstance in the case cited. Therefore, the citation relied on by the writ petitioner is not helpful to him as the facts are different. Proper details regarding the customary divorce allegedly obtained by writ petitioner are neither pleaded nor proved. Learned Single has addressed to every point including the opportunity given to the petitioner in the departmental inquiry proceedings at every stage.

20. A perusal of record is indicating that a fair opportunity provided to the charged officer to prove that there was divorce between one Padmavathi and the petitioner prior to opting for marriage with Lakshmi but there is no evidence as rightly observed by the learned Single Judge.

21. There is a clear admission of the petitioner that he has opted marriage with Baby Padmavathi and Lakshmi also. It is not as if, the charge is inclusive of the allegation of series of marriages of the petitioner.

22. In a case between ***B.C.Chaturvedi V. Union of India and Others***⁵ the *Hon'ble Apex Court* considered the scope of judicial review, against the findings of the disciplinary authority and appellate authority, relevant observations are made at para 12 and 13, which reads as follows:-

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of

⁵ (1995) 6 SCC 749

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 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 reappreciate 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.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to re-appreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India v. H.C. Goel* [(1964) 4 SCR 718 : AIR 1964 SC 364 : (1964) 1 LLJ 38] this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

23. Upon careful consideration of the facts and circumstances of the case and the material available on record, including the relevant legal position, we are of the considered view that the conclusion of the learned Single Judge is

well-reasoned in declining to interfere with the findings of the disciplinary authority under the impugned orders and that there are no grounds to interfere with the orders now under challenge before this Court. Point framed is answered accordingly.

Point No.2:

24. In view of the conclusion drawn under point No.1 (above), the appeal is liable to be dismissed.

25. Accordingly, the Writ Appeal is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE BATTU DEVANAND

JUSTICE A.HARI HARANADHA SARMA

Dated: 17.02.2026

KBN

THE HON'BLE SRI JUSTICE BATTU DEVANAND
&
THE HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

WRIT APPEAL NO:692 of 2014

Dt.17.02.2026