

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 5565 of 2022

Ram Krishna Paswan age about 43 years S/O Jagdeo Paswan R/O
Village- Pipri , P.O- Raji,P.S- Khondhi , District- Garhwa

....Petitioner

Versus

1. State of Jharkhand through Secretary Department of Home, office at Project Building, Dhurwa, P.O + P.S- Dhurwa, District- Ranchi.
2. Director General of Police , Government of Jharkhand Office at Raja Rani Kothi , Near Nepal House, P.O + P.S- Doranda, District Ranchi.
3. Deputy Inspector General , Government of Jharkhand Office at Raja Rani Kothi , Near Nepal House, P.O + P.S- Doranda, District Ranchi.
4. Commandant Jharkhand Armed Police-3, office at Govindpur , P.O + P.S Govindpur, District- Dhanbad. ... Respondent(s).

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Arwind Kumar, Advocate
For the Respondents : Mr. Kanishka Deo, AC to GP-IV

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07/ 20.01.2026: By way of filing this writ petition, the petitioner has sought for the following reliefs:-

- i. *Quashing of the memo No. 618 dated 24.11.2021 (Annexure-4) passed by Sri Rajeev Ranjan Singh , Deputy Inspector General cum Appellate Authority (Respondent No. 3) whereby and where under learned appellate authority has dismissed the appeal preferred by this petitioner arising out of the order of dismissal of the petitioner from the service passed by the Commandant, Jharkhand a Armed Police-3 (Respondent No.4).*
- ii. *Quashing of the order dated 05.09.2021 passed by Commandant Jharkhand Armed Police-3 where by and where under petitioner has been dismissed from his post of Havildar of Jharkhand Armed Police (it will be called JAP here in after) vide its order dated 05.09.2021 in Memo No. 1900 (Annexure-3).*
- iii. *Direction maybe issued to the respondent for reinstatement of the petitioner in his original post with all consequential benefit.*

2. The petitioner was appointed as a Constable in District Police on 07.12.2004 and later promoted to the post of Havildar. A complaint was made by a woman named Priya Devi alleging physical torture and threats by the petitioner. During inquiry, it was found that the petitioner

had already been married to Sunita Devi and had entered into a second marriage without the permission from the department. A departmental charge was framed on 13.11.2020 for solemnizing second marriage during subsistence of the first, without permission. After conclusion of the departmental proceeding, the petitioner was terminated from service vide order dated 05.09.2021. His appeal before the Deputy Inspector General was also dismissed. Further no decision was taken on his later representation to the Director General of Police.

3. Learned counsel for the petitioner submits that witnesses were not cross-examined and the punishment is extremely harsh and disproportionate. He further submits that the alleged misconduct relates to a personal matter and has no connection with the petitioner's official duties or performance. He also submits that due to termination, petitioner's family and school-going children are suffering badly. The Hon'ble Supreme Court in "*Bhagat Ram vs State of Himachal Pradesh and others*" reported in (1983) 2 SCC 442 modified the punishment of dismissal to a lesser penalty, holding that punishment must be proportionate to the proved misconduct, so he seeks some relief. He further submits that the termination is unfair, illegal, and against service jurisprudence, and petitioner seeks reinstatement with full benefits.

4. Learned counsel for respondents submits that the allegations against the petitioner that he married Priya Devi by hiding the fact that he was already married and later treated her with cruelty which were found to be true in the departmental proceeding. He further submits that during the departmental inquiry, the petitioner was found guilty of contracting a second marriage, during subsistence of the first, without prior permission of the employer, which is a serious misconduct. He also submits that punishment cannot be reduced merely because the complainant requested leniency. The inquiry was conducted fairly by following due procedure and giving the petitioner full opportunity to be heard. The Enquiry Officer proved the charge, and based on the report, the disciplinary authority dismissed the petitioner from service.

5. After hearing both the parties and upon perusal of the records, I find that the departmental inquiry was conducted in accordance with law, the charge against the petitioner was proved, and no procedural irregularity or illegality is made in the orders passed by the disciplinary and appellate authorities.

6. The Court exercising jurisdiction under Article 226 of the Constitution of India does not sit in appeal over the findings in a departmental proceeding, unless perversity or gross illegality is shown, which is absent in the present case.

Further, it is well settled that the punishment awarded to the petitioner, unless shocking to the conscience of the Court, cannot be subjected to judicial review by the Court. The Hon'ble Supreme Court in "*Lucknow Kshetriya Gramin Bank v. Rajendra Singh*" reported in (2013) 12 SCC 372, in paragraph 19 has held as under-

19. The principles discussed above can be summed up and summarised as follows:

19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.

19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.

19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.

The Hon'ble Supreme Court in the case of "*Khursheed Ahmad Khan v. State of U.P.*" reported in (2015) 8 SCC 439 in paragraph 11 has held as under-

11. As already mentioned above, there is adequate material on record in support of the charge against the appellant that he performed the second marriage during the currency of the first marriage. Admittedly, there is no intimation in any form on record that the appellant had divorced his first wife. In service record she continued to be mentioned as the wife of the appellant. Moreover, she has given a statement in enquiry proceedings that she continued to be the wife of the appellant. The appellant also admitted in inquiry conducted on directions of the Human Rights Commission that his first marriage had continued. In these circumstances, the finding of violation of the Conduct Rules cannot be held to be perverse or unreasonable so as to call for interference by this Court. In these circumstances, the High Court was justified in holding that the penalty of removal cannot be held to be shockingly disproportionate to the charge on established judicial parameters.

In this case also the petitioner who is in disciplined force has violated the rules of Government Servant Conduct Rule, 1976. He married for the second time during currency of the first marriage, without obtaining permission from the employer. Thus, in view of the judgment of the Hon'ble Supreme Court in the case of "*Khursheed Ahmad Khan*" (*supra*) and the facts of the case, I find that the punishment of dismissal from service, commensurates with the proved misconduct. Thus no ground is made out to interfere with the order passed by the Disciplinary Authority or the Appellate Authority, which are under challenge.

7. Accordingly, this writ petition is **dismissed**. The respondents are directed to pay all admitted dues to the petitioner.

(ANANDA SEN, J.)