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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 515/2024

SHAILENDER KUMAR .....Petitioner

Through: Mr. K.K. Sharma and Mr. Harshit Agarwal, Advs.

versus

UNION OF INDIA AND ORS & ORS. .....Respondents

Through: Mr. Neeraj, Sr. PC with Mr. Soumyadip Chakraborty, Adv. for UOI with Mr. Arshdeep Singh Randhawa, (Legal Officer) RAF

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 13.10.2025

C. HARI SHANKAR, J.

1. The petitioner stands dismissed from service by order dated 27 February 2023, passed by the Commandant 114th Battalion Jalandhar, Rapid Action Force[1]. An appeal, and subsequently a revision petition, preferred thereagainst, stand dismissed on 19 May 2023 and 23 November 2023. All three orders are assailed herein.

2. The service conditions of the petitioner are, admittedly, governed by the provisions of the Central Reserve Police Force Act,

[1] "RAF", hereinafter

1949[2] and the Central Reserve Police Force Rules, 1955[3].

3. The order of dismissal was in culmination of disciplinary proceedings which were initiated against the petitioner *vide* chargesheet dated 14 October 2022, issued under Section 11(1)[4] of the CRPF Act read with Rule 15[5] of the CRPF Rules.

4. It appears to us to be somewhat strange that the penalty of dismissal from service has been treated as a minor punishment under Section 11 of the CRPF Act. However, as the provision is not under challenge, we refrain from saying any further on this aspect.

5. There were three charges against the petitioner. It is not necessary for us to reproduce all the charges. Suffice it to state that

(i) the first charge was that the petitioner had married one Sangeeta Dudhnath Vishwakarma on 30 May 2021, even while his marriage with his first wife Chandra Kiran was subsisting,

(ii) the marriage with Ms. Vishwakarma was solemnised without prior intimation to the respondents,

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[2] "CRPF Act", hereinafter

[3] "CRPF Rules" hereinafter

[4] **11 Minor punishments –**
(1) The Commandant or any other authority or officer as may be prescribed, may, subject to any rules made under this Act award in lieu of or in addition to, suspension or dismissal any one or more of the following punishments to any member of the force whom he considered to be guilty of disobedience, neglect of duty, or remissness in the discharge of any duty or of other misconduct in his capacity as a member of the force, that is to say :-
(a) reduction in rank;
(b) fine of any amount not exceeding one month's pay and allowances;
(c) confinement to quarters, lines or camp for a term not exceeding one month;
(d) confinement in the quarter-guard for not more than twenty eight days with or without punishment drill or extra guard, fatigue or other duty; and
(e) removal from any office of distinction or special emolument in the force.

[5] 15. **Plural marriages** — No member of the Force who has wife living shall contract any other marriage without first obtaining the permission of the Government notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to the member of the Force.

(iii) the petitioner had availed child care allowance, for taking care of Ms. Ishita, who was the daughter of Ms. Vishwakarma prior to her marriage to the petitioner, even before formally adopting her.

6. Before the respondents in the disciplinary proceedings, the petitioner adopted a specific stand that his marriage with Chandra Kiran had been dissolved by execution of a dissolution deed on stamp paper dated 29 March 2021 in the presence of the Panchayat. This specific contention has been noted in the impugned order of dismissal.

7. The Commandant, however, while passing the impugned order of dismissal, has not addressed himself to the issue of whether the dissolution of the marriage on stamp paper, in the presence of the Panchayat, can be treated as a valid dissolution. There is, in fact no application of mind to this contention of the petitioner at all. The impugned order merely records a blank finding that the marriage had not been validly dissolved.

8. Section 29(2)[6] of the Hindu Marriage Act, 1955 specifically permits dissolution of a marriage in a manner recognised by custom. This provision has been interpreted by the Supreme Court in ***Sanjana Kumari v Vijay Kumar***[7] , in which the Supreme Court has followed its earlier decision in ***Yamanaji H. Jadhav v Nirmala***[8], and has thereafter observed in paragraphs 10 and 11 thus:

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[6] (2) Nothing contained in this Act shall be deemed to affect any right recognised by custom or conferred by any special enactment to obtain the dissolution of a Hindu marriage, whether solemnised before or after the commencement of this Act.

[7] Order dated 18 September 2023 in **Criminal Appeal 2905/2023**

[8] **(2002) 2 SCC 637**

> "10. There can be thus no doubt that the party who places reliance on customary divorce deed is obligated to establish that such custom is allowed by a practice that has been uniformly observed for a long time and such custom is not unreasonable or opposed to public policy and thus the validity of such customary divorce is duly protected by the exception carved out in Section 29(2) of the 1955 Act.
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> 11. The issue whether the parties are governed by the custom under which a divorce can be obtained without recourse to Sections 11 and 13 of the 1955 Act, is essentially a question of fact which is required to be specifically pleaded and proved by way of cogent evidence. Such question can ordinarily be adjudicated only by a civil court. May be in the peculiar facts and circumstances of a case, the validity of a customary divorce deed can be examined even by a court other than the Civil Court in some collateral proceedings. But that is not the question which falls for our consideration in these proceedings."

9. It is true that the Supreme Court has observed that the question of whether a marriage has been validly dissolved in accordance with existing custom is ordinarily to be decided by a Civil Court by leading evidence. Nonetheless, we are concerned, in the present case, with a very limited inquiry. The issue before us is whether the petitioner was validly dismissed from service. There can be no doubt about the fact that, if the petitioner's marriage with Mrs. Chandra Kiran had in fact been validly dissolved, the first two charges against the petitioner would not survive.

10. The second Article of Charge against the petitioner is that he failed to inform the respondents before marrying Ms. Vishwakarma. Rule 15 of the CRPF Rules, which requires an employee of the CRPF, before contracting a second marriage, even while his first wife is alive, to inform the CRPF, applies only where the first marriage is

subsisting. If the first marriage stands dissolved in accordance with law, Rule 15 of the CRPF Rule has no application.

11. Article two of the articles of charge against the petitioner is also, therefore, dependent on whether the marriage of the petitioner with Mrs. Chandra Kiran was validly dissolved.

12. The petitioner had specifically pleaded, before the disciplinary authority, that the marriage had been validly dissolved by executing of a dissolution deed on stamp paper *in the presence of the Panchayat of the Village*. This assertion on facts has been noted in the impugned order of dismissal, and has not been held to be incorrect. The disciplinary authority has not doubted the correctness or proof of this assertion.

13. In these circumstances, it is clear, at the very least, that the petitioner's marriage with Ms. Vishwakarma was a *bona fide* marriage, as the earlier marriage with Chandra Kiran, at least in the perception of the petitioner, stood dissolved by way of a dissolution deed on stamp paper executed in the presence of the Panchayat of the village.

14. To dismiss the petitioner from service in such circumstances would, in our considered opinion, be unjustified.

15. We make it clear, however, that we are examining this aspect solely from the point of view of whether the dismissal of the petitioner

from service was justified and, for that limited purpose, we do not deem it necessary to embark into a detailed factual or legal inquiry into whether, strictly speaking in law, the first marriage had been validly or not validly dissolved. We have arrived at the view that we have taken because (i) the petitioner had specifically asserted, before the disciplinary authority, that his marriage with Chandra Kiran had been validly dissolved by executing a dissolution deed on a stamp paper in the presence of the village Panchayat, (ii) there is no finding, in the order of dismissal, that this assertion was factually incorrect; nor was the petitioner ever called upon to lead any evidence in that regard, and (iii) there is no finding, by the disciplinary authority, that this manner of dissolution of marriage of the petitioner with Chandra Kiran did not amount to a valid dissolution.

16. Accordingly, Article 1 of the Articles of Charges, in our view, cannot be said to have been proved against the petitioner.

17. At this point, we may also note that, after the passing of the order in appeal dated 19 May 2023 but before rejection of the revision petition filed by the petitioner thereagainst on 23 November 2023, the petitioner had also obtained a divorce from Mrs. Chandra Kiran by a decree of mutual consent passed by the Family Court Mau, UP, on 25 July 2023.

18. Insofar as Rule 15 of the CRPF Rules is concerned, it applies to a very specific circumstance in which the personal law applicable for the time being in force to the member of the Force concerned permits

a plurality of marriages at one time. It applies, in other words, where the applicable personal law permits the member of the Force, even while he has one wife living, to marry a second time.

19. Clearly this Rule has no application whatsoever to the facts of the present case.

20. The third Article of Charge against the petitioner pertained to his having availed child care allowance from the respondents for the period 2020-2021.

21. It is not as though the petitioner had kept the respondents in the dark regarding his second marriage to Ms. Vishwakarma. Given the fact that Ishita was actually a daughter of Ms. Vishwakarma, with whom the petitioner had contracting a marriage and who was being taken care of by him, we are of the opinion that it cannot be said that the petitioner invalidly availed child care allowance, even if formal adoption of Ishita by the petitioner took place at a later point of time.

22. Dismissal from service is an extreme step. It throws the family of the employee into disarray and brings, to an ignominious and abrupt halt, the family's source of livelihood. It is not, therefore, a step to be routinely taken, especially where the allegation against the employee does not involve an element of moral turpitude or financial or like impropriety.

23. In the circumstances of the present case, dismissal of the

petitioner from service would result in a travesty of justice.

24. Accordingly, the impugned order dated 27 February 2023, the appellate order dated 19 May 2023 and the revision order dated 23 November 2023 are quashed and set aside.

25. We direct that the petitioner be reinstated in service forthwith.

26. The petitioner would be entitled to be treated as having continued in service and would be entitled to all benefits following continuity in service including seniority and the benefits of pay fixation. However, the petitioner would not be entitled to any arrears of pay for the period that he has not served the respondents.

27. The petition is allowed to the aforesaid extent with no order as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

OCTOBER 13, 2025*/aky*