

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C) No. 288 of 2019

Date of Decision: 30.03.2023

Shri Karam Singh

Vs. The Union of India & Ors.

**Coram:**

**Hon'ble Mr. Justice H. S. Thangkhiew, Judge**

**Appearance:**

For the Petitioner(s)

:

Mr. R. Jha, Adv.

For the Respondent(s)

:

Dr. N. Mozika, DSG with  
Ms. S. Rumthao, Adv.

- |     |   |        |
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| i)  | Whether approved for reporting in Law journals etc: | Yes/No |
| ii) | Whether approved for publication in press:          | Yes/No |

**JUDGMENT AND ORDER (ORAL)**

1. The writ petitioner is before this Court in this second round of litigation assailing the order of dismissal from service dated 18.01.2017.

2. The brief facts of the case are that the writ petitioner who was enrolled in the Assam Rifles on 07.10.2002, after marriage to one Smti Thakuri Devi on 31.12.2005, had contracted a second marriage on 26.02.2008. On a complaint by the petitioner's first wife,

disciplinary proceedings were initiated against the petitioner and his statement therein was recorded, where he admitted to the said allegations. A copy of the enquiry report was then handed-over to the writ petitioner on 20.01.2010, asking him to reply to the same.

3. Thereafter, a second show cause dated 26.07.2010 was served upon the petitioner, which was duly received by him, and vide order dated 26.09.2010, the writ petitioner was discharged and compulsorily retired from service with effect from 27.09.2010. The petitioner then preferred a writ petition being WP(C) No. 169 of 2014, assailing the said order of compulsory retirement, and this Court by order dated 24.07.2015, allowed the same on the ground that the authority passing the order of dismissal was not the competent authority to issue the order of discharge.

4. An appeal had then been preferred by the respondents before a Division Bench of this Court being WA No. 2 of 2016, and the Division Bench by order dated 22.03.2016, upheld the order of the Single Bench, but permitted the respondents to proceed with the disciplinary proceedings against the petitioner after reinstating him in service.

5. After the writ petitioner had been reinstated in service on 07.05.2016, a fresh show cause notice was issued by the Deputy Inspector General, Assam Rifles on 25.06.2016, which was replied by

the writ petitioner on 19.07.2016. On receipt of the reply, the respondents by order dated 18.01.2017, dismissed the petitioner from service. Being aggrieved thereby, the writ petitioner has preferred the instant writ petition.

6. Mr. R. Jha, learned counsel for the petitioner submits that the procedure adopted had deprived him the right to make a proper representation and that disproportionate punishment had been inflicted upon the petitioner. The learned counsel has also advanced his arguments that the writ petitioner had been subjected to two punishments for one infraction. He therefore submits that the procedure was irregular, as the writ petitioner was not given adequate opportunity. He then prays that the impugned order be set aside and the writ petitioner be reinstated in service, or in the alternative, lesser punishment be awarded.

7. Dr. N. Mozika, learned DSG assisted by Ms. S. Rumthao, learned counsel for the respondents submits that there is no question that the procedure adopted suffered from any irregularities, inasmuch as, the Division Bench of this Court vide order dated 22.03.2016, had permitted the respondents to continue with the disciplinary proceedings. As such, in accordance with the said order, a second show cause notice was served, which culminated with the dismissal of the writ petitioner.

8. He further submits that lengthy proceedings were not called for, in view of the fact that the earlier order of compulsory retirement was set aside only on the basis that the order was issued by the Commandant, who is not a competent authority, but the enquiry report itself, was not set aside. He submits that as the disciplinary proceedings had continued, the petitioner not having put up any defense, in spite of the second show cause notice, there is no procedural irregularities and the writ petition is liable to be dismissed.

9. I have the learned counsel for the parties, examined the materials on record and given my thoughtful consideration to the matter at hand.

10. As submitted by the learned DSG, it is a fact that in the earlier round of litigation, the only ground on which the dismissal order of compulsory retirement was interfered with, was on the ground that the Commandant was not the competent authority to issue the dismissal order. However, on the disciplinary proceedings, which were then taken up again in accordance with the Division Bench order, it is seen that the writ petitioner was accorded adequate opportunity to show cause against the said charges.

11. A perusal of the show cause reply however, shows that the petitioner in a very cryptic manner, had just denied the allegations and referred to the fact that the earlier order of dismissal was set aside and

quashed. From the records and the materials at hand, the contention that the writ petitioner has not been afforded adequate opportunity to defend himself or answer to the charges is belied, inasmuch as, a show cause notice on re-initiation of the proceedings had been served on 25.06.2016, to the writ petitioner.

12. On the other aspect of disproportionate punishment on the contention that the writ petitioner had been subjected to two punishments for the same infraction, it is noted by this Court that this is not the case, inasmuch as, the earlier proceedings on the interference of this Court had to be re-started, and there is no question of two punishments being meted for one charge of misconduct. In this regard, the contention that the punishment meted to petitioner is disproportionate, the decision cited by the learned DSG in the case of *Union of India & Ors. vs. Ramashankar Gupta* reported in (2012) 6 GLR 55 on similar circumstances, the punishment of dismissal from service on a proven charge of bigamy, was upheld by the Division Bench.

13. Looking into the entire facts and circumstances of the case, there being no irregularities in the disciplinary proceedings and also the punishment not seen to be disproportionate, the writ petition is dismissed, however, with no order as to costs.

**JUDGE**

