
(2015) 06 TP CK 0112
In the Tripura High Court
Case No : WP(C) 373 of 2009

Kutub Ali

APPELLANT

Vs

The State of Tripura and Others

RESPONDENT

Date of Decision : 30-06-2015

Acts Referred:

Citation : (2015) 06 TP CK 0112

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : S. Deb Gupta, for the Appellant; T.D. Majumder, G.A., Advocates for the Respondent

Final Decision : Dismissed

Judgement

Deepak Gupta, C.J—By means of this writ petition, the petitioner has prayed for quashing of the order passed by the disciplinary authority, dated 06.6.2006 (Annexure-18) and the appellate order, dated 23.04.2007 (Annexure-23) whereby major penalty of reduction of his pay has been imposed upon him. The petitioner further prayed that after setting aside the orders he be promoted to Grade-I (Selection Grade) of Tripura Civil Service.

2. In the disciplinary proceedings the charge against the petitioner was that while working as District Tribal Welfare Officer (DTWO), Dhalai, he established illicit relationship with one young girl Sumita Hrangkhal and out of this illicit relationship one child was born.

3. The case of the prosecution was that Sumita Hrangkhal was in search of employment and taking advantage of her financial position the petitioner misused his Office and compelled her to have sexual relationship with him. Sumita Hrangkhal appeared before the disciplinary authority and supported her complaint that she had lodged the complaint (Exbt. P-7) and also her application (Exbt.8), to the Commissioner, Tribal Welfare Department. She also stated that the subject matter of the complaint was compromised between herself and the

petitioner with the intervention of well wishers and she was satisfied with the terms and conditions of the compromise. She also swore an affidavit in this regard. The Inquiry Officer exonerated the petitioner but the disciplinary authority did not agree with the finding and finally after following the proper procedure and after giving the petitioner an opportunity to put forth his case the disciplinary authority passed the impugned order. The appeal filed by the petitioner was dismissed. In view of this finding the petitioner was not found fit for promotion. The petitioner was also charged in a criminal case but that was also disposed of because the prosecutrix stated that she had compromised the matter with the petitioner.

4. It is urged by Ms. S. Deb Gupta, learned counsel for the petitioner that since the petitioner has been acquitted in criminal proceedings which arise out of the same occurrence he should be exonerated in the disciplinary proceedings also. She also submitted that the charges against the petitioner had not been proved.

5. We have carefully gone through the material on record including the evidence led both in the disciplinary proceedings as well as in the criminal case. Sumita Hrangkhal first made a complaint in 2001 in which she alleged that the accused had sexual relations with her. A child was born out of the marriage and the accused had conducted second marriage. Later, no doubt, the complainant stated that she had compromised the matter but it would be pertinent to mention that she had not stated that the allegations made earlier were false. The matter may have been compromised between Sumita Hrangkhal and the accused but that cannot exonerate the public servant of the charges of misconduct levelled against him. When Sumita Hrangkhal was examined, no suggestion was put to her that the allegation made by her was false. She stuck to her allegations. It stands proved that a child was born out of this illicit relationship and therefore, I am of the considered view that the findings given by the disciplinary authority are absolutely correct and do not call for any interference.

6. It has been urged by Ms. Deb Gupta, that the accused has been acquitted in criminal proceedings. Here it would be relevant to refer to the order passed by the Additional Sessions Judge, Kamalpur. In his order acquitting the accused this Court has held that the prosecutrix stated that she had a love affair with the accused which ended in physical contact. According to her, it is only after the wife of the accused (petitioner herein) came to know about their affair, that the wife raised objection and did not accept the prosecutrix as her second wife. She also stated that later the accused married her and a child was also born. This, in fact, proves the case of the prosecution that the petitioner when he was in service entered into an illicit relationship which is against the conduct rules. In fact, from the evidence on record it appears that Somita Hrangkhal was not even a major but unfortunately, nothing can be done in this regard at this stage. The conduct of the petitioner is not expected out of a government servant.

7. Lastly, it was urged by Ms. Deb Gupta, that as per the religion of the petitioner he is entitled to marry more than once. Any person who joins the government

service has to follow the "Conduct Rules" and as per the Conduct Rules, no employee can get married while his first wife is alive and living unless the marriage is dissolved. Therefore, the petitioner cannot get any benefit of his religious belief. The act of the petitioner definitely amounts to misconduct and in my opinion he has been let off lightly.

8. In view of the above discussion, I find no merit in the petition which is, accordingly, dismissed.