
(2013) 03 CAL CK 0071
In the Calcutta High Court
Case No : W.P.S.T. No. 152 of 2012

Satyajit Roy

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 22-03-2013

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Constitution of India, 1950 — Article 226

Citation : (2013) 2 CHN 647 : (2013) LabIC 3837

Hon'ble Judges : Indira Banerjee, J;Anindita Roy Saraswati, J

Bench : Division Bench

Advocate : D.N. Roy, M.N. Roy and Sarbani Chakraborty, for the Appellant;Joytosh Majumdar and Manas Kr. Sadhu, for the Respondent

Final Decision : Dismissed

Judgement

Indira Banerjee, J.—In this writ application the petitioner has challenged an order dated 19th March, 2012 passed by the West Bengal Administrative Tribunal No. OA/TA/MA/CCP/RA/626/11 u/s 19 of the Administrative Tribunals Act, 1985. The petitioner, Satyajit Roy, was initially appointed as a Constable of the Kolkata Police and later promoted as Assistant Sub-Inspector.

2. A departmental proceeding was initiated against the petitioner on the basis of a charge-sheet. There were three articles of charges against the petitioner, the first charge being accumulation of assets disproportionate to his known source of income; the second charge being bigamy and the third charge being purchase of a plot without permission.

3. The first and the third articles of charges were not proved. However, the second charge of bigamy was proved in enquiry. The only charge of which the petitioner has been held guilty was the charge of bigamy. The Enquiry Officer found that there was sufficient evidence that the petitioner had visited the Tarapith, Birbhum along with his second wife and others. The Enquiry Officer appears to have relied on photographs which show the petitioner putting

vermilion on the head of his second wife with his own hands in the presence of others.

4. The petitioner also made a statement in writing to the effect he had married (Deepa Adhikary), he knew Deepa as his wife, he would remain husband of Deepa as long as life. Statement was on stamp paper of Rs. 10/-.

5. The petitioner denied having married Deepa or having made any statement on stamp paper as alleged. However, he later admitted that the statement was in his hand writing but contended that the same had been obtained by Deepa and Tuphan Adhikary and other associates by threat and coercion. Yet the petitioner, himself a policeman did not lodge any FIR.

6. The evidence on record also reveals that the petitioner lived together with Deepa giving people the impression that Deepa was his wife. One Gopal Sinha in whose house the petitioner lived as tenant with Deepa has given oral evidence. Similarly other neighbours have also given evidence to the effect that the petitioner and Deepa lived together as husband and wife. One Tuphan Adhikary son of Deepa from her first husband Late Arun Adhikari was also examined and he deposed that the petitioner and his mother lived together as husband and wife. He deposed that the petitioner was his mother's second husband. From the statement given by Tuphan Adhikary the Enquiry Authority found that the petitioner had married Deepa. The petitioner emphasized the fact that Deepa did not use the surname Roy. However, the Enquiry Officer rightly found that many married women did not change their surname after marriage.

7. The petitioner was asked to show-cause why major penalty should not be imposed on the petitioner for contracting second marriage. The petitioner replied to the show-cause notice inter alia contending that the allegations held proved against the petitioner did not conform to the statutory requirement of marriage.

8. By an order dated 19th April, 2002, the Joint Commissioner of Police (Headquarters), Kolkata being the Disciplinary Authority imposed on the petitioner the punishment of reduction of pay by three stages for a period of years.

9. Being aggrieved the petitioner appealed to the Commissioner of Police. By an order dated 11th May, 2011 the appeal was dismissed. The petitioner thereafter filed an application before the learned Tribunal being O.A. No. 626 of 2011 which has been dismissed by the order impugned.

10. The Enquiry Officer arrived at the conclusion that the petitioner had contracted second marriage upon assessment of the evidence on record. It is not for this Court exercising jurisdiction under Article 226 of the Constitution of India to sit in appeal over the verdict of the Enquiring Authority/Disciplinary Authority/Appellate Authority upon re-assessment of the evidence on record. The decision is based on evidence. As observed above the interference of this Court is not called for. Bigamy is a serious offence which entails a major penalty. It cannot be

said that the penalty of reduction of scale is so shockingly, disproportionate as to call for interference in proceedings under Article 226 of the Constitution of India.

11. The writ petition is, therefore, dismissed. Urgent Photostat certified copy of this judgment and/or order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

Anindita Roy Saraswati, J.

I agree.