



Reserved



2026:AHC-LKO:66346

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 4741 of 2022

Rohit Pandey

.....Petitioner(s)

Versus

Union of India Thru.Secy. Ministry of Home Affairs and 3 Other

.....Respondent(s)

Counsel for Petitioner(s)	: Meenakshi Singh Parihar, Divyanshu Pratap
Counsel for Respondent(s)	: A.S.G.I., Ambrish Rai, Anand Dwivedi

Court No. - 17

HON'BLE RAJEEV SINGH, J.

1. Heard Ms. Meenakshi Singh Parihar and Shri Prashant Kumar Singh, learned counsel for the petitioner and Shri Anand Dwivedi, learned counsel for the Union of India.

2. This petition has been filed seeking the following main prayers.

"i. issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 28.04.2022, passed by O.P. No. 3, removing the Petitioner from the services with immediate effect, as contained in Annexure No. 1 of the Writ Petition.

ii. issue a writ, order or direction in the nature of mandamus directing the opposite parties to reinstate the petitioner in the services and give him all the service-related consequential benefits and seniority w.e.f. 28.04.2022 and not to treat this removal as "Break in Service"

3. Learned counsel for the petitioner submitted that the petitioner was selected on the post of Assistant Commandant (General Duty) in Shashatra Seema Bal (for short 'SSB') on 05.12.2009 and was later on promoted to the post of Deputy Commandant vide

order dated 22.03.2016. Learned counsel for the petitioner submitted that the genesis of the present controversy is the false complaints made by one Sucheta Tiwari against the petitioner. The facts of the case are that a proposal for marriage of Sucheta Tiwari with the petitioner was placed before the family of the petitioner, but the same was not accepted by the petitioner as well his family members. Thereafter, on the basis of incorrect facts, a complaint was made to the Department, on the basis of which, criminal proceeding was initiated against the petitioner. A false proceeding under Section 125 Cr.P.C. was also initiated by Sucheta Tiwari stating therein that her marriage was solemnized with the petitioner in a temple and, thus, requested for entering her name in the service record of the petitioner.

3.1 Learned counsel for the petitioner submitted that on the basis of her complaint, proceedings of Court of Inquiry were also initiated against the petitioner by the department, in which, reply was also given by the petitioner. Learned counsel for the petitioner vehemently submitted that in the meantime, one report was also called from the concerned police station by the District Magistrate, Pratapgarh, on which, Sub-Inspector, Ramadhar Singh, Police Outpost Gadwara, Pratapgarh submitted a report mentioning that the family members of Sucheta Tiwari were willing to solemnize her marriage with the petitioner, but as per the villagers, no marriage was ever solemnized. It is also mentioned therein that the application under Section 125 Cr.P.C. moved by Sucheta Tiwari has already been dismissed and in the case filed under Sections 498-A, 323, 504 I.P.C. and Section 3/4 D.P. Act, protection was granted by the writ Court.

3.2 Submission of the learned counsel for the petitioner is that all these proceedings were initiated by Sucheta Tiwari only with the intention to make pressure on the petitioner to solemnize

marriage with her and, there is no evidence of their marriage, as per the Hindu rituals. It has further been submitted that in the proceedings of Case No. 1548 of 2013, under Sections 498-A, 323 I.P.C. and Section 3/4 D.P. Act, the court below, noticing major contradiction in the version of the complainant, acquitted the petitioner.

3.3 Relying on the decision of the Hon'ble Supreme Court in the case of **Priya Balan Ghosh Vs. Suresh Chandra Ghosh, 1971 (1) SCC 864**, learned counsel for the petitioner submitted that under the provisions of Hindu Marriage Act, marriage is only valid when it is performed with essential ceremonies. Reliance has also been placed on the decision of the Hon'ble Apex Court in the case of **Shanti Deb Berma Vs. Kanchan Prava Devi, 1991 Supp (2) SCC 616** contending that evidence of marriage must be cogent and cannot be proved by letters or oral evidences. It has also been submitted that certificate of marriage is proved only when such marriage is performed and mere obtaining a marriage certificate from Arya Samaj, is not a proof of valid marriage. Attention of the Court has also been drawn towards the order of trial court in the aforesaid Criminal Case No. 1548 of 2013, in which, the complainant, in her statement recorded during the course of trial proceedings, had herself admitted that her marriage was not performed as per Hindu rituals and Saptpadi.

3.4 Submission of the learned counsel for the petitioner is that there was no concealment by the petitioner while joining the services and he had rightly informed in the service record that at the relevant point of time, he was unmarried. It has vehemently been submitted that the impugned punishment order has been passed merely on the basis of imaginary facts. It has, thus, been submitted that the indulgence of this Court is necessary and the impugned order may be quashed.

4. Shri Anand Dwivedi, while opposing the prayer of the petitioner, submitted that in the departmental inquiry, complainant was called and she stated that her marriage was solemnized with the petitioner in Arya Samaj Mandir, Krishnanagar Prayag, Allahabad on 16.08.2007. The Purohit (Priest) of Arya Samaj Mandir was also examined, who stated that marriage was solemnized in his presence. The notary certificates were also placed. Learned counsel for the respondent, thus, submitted that the petitioner made incorrect declaration at the time of entering into service that he was unmarried and, therefore, there is no illegality in the impugned order. It has further been submitted that the petitioner also gave incorrect information in the attestation form by giving reply 'No' to the question that "Have you ever been prosecuted", however, at the time of submission of information, he was being prosecuted in the aforesaid criminal case. It has, thus, been submitted that no interference is required in the matter and the petition is liable to be dismissed.

5. I have considered the arguments advanced by the learned counsel for the parties and gone through the records, including the judgments relied by the learned counsel for the petitioner.

6. It is evident that the whole controversy revolves around the complaint moved by the Sucheta Tiwari alleging that the petitioner performed marriage with her in Arya Samaj Mandir, on the basis of which, the petitioner was removed from service vide impugned order dated 28.04.2022, observing that he made false declaration at the time of joining the service. It is well settled that as per Hindu Marriage Act, marriage is valid only when it is performed with the essential ceremonies of Hindu rituals and Saptpadi. As the complainant-Sucheta Tiwari had herself stated, during the trial proceedings before the trial court in Case No.

1548 of 2013, that marriage was not solemnized as per Hindu rituals.

6.1 This issue has already been settled by the Hon'ble Apex Court in the case of **Priya Balan Ghosh** (supra), holding that merely on the basis of placing any certificate of Arya Samaj Mandir, it cannot be said that marriage was solemnized as per Hindu Marriage Act. In view of the settled proposition, the observation made in the impugned order that marriage of the petitioner was already solemnized with the complainant-Sucheta Tiwari, has no substance. The other ground of unsuitability of the petitioner taken by the respondent-authorities was that he solemnized 1st marriage on 16.08.2007 with Sucheta Tiwari and thereafter, solemnized another marriage on 13.12.2015 with one Sadhana Tiwari. However, in view of the law laid down by the Hon'ble Apex Court in the case of **Priya Balan Ghosh** (supra), the marriage dated 16.08.2007, cannot be held to be a marriage in the eyes of law, and, therefore, it cannot be a ground for holding the petitioner unsuitable for service.

6.2 In view of above facts and discussions, the impugned order is liable to be quashed and is hereby set aside.

7. The writ petition is allowed.

8. The respondents are directed to allow the petitioner to resume the duties forthwith. However, the period from the date of impugned order dated 28.04.2022 till today, will be treated as 'No work, No pay', though without break in service.

(Rajeev Singh,J.)

September 18, 2026

VKS