

Manoj Kumar Sharma Vs. State of Bihar and ors.

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Court : Patna

Decided On : Feb-20-2003

Judge : Ravi S. Dhavan, C.J. and R.N. Prasad, J.

Acts : Service Law

Appeal No. : L.P.A. No. 77 of 2003

Appellant : Manoj Kumar Sharma

Respondent : State of Bihar and ors.

Disposition : Appeal dismissed

Judgement :

Ravi S. Dhavan, C.J. and R.N. Prasad, J.

1. The petitioner-appellant has filed an appeal against the order dated 30th October, 2000 in CWJC No. 8818 of 2002; Manoj Kumar Sharma v. State of Bihar and Ors.. At this stage, it needs to be mentioned that the petitioner had filed a writ petition earlier CWJC No. 10452 of 2000 by which he had challenged his dismissal under memo dated 26th August, 2000, as a punishment for being dismissed from service from the post of Constable, Bihar Military Police. The previous writ petition, in effect, was about the enhancement of punishment by the Director General of Police upon a show-cause notice, the Court had indicated that the order must indicate the reason.

2. The later petition out of which the Letters Patent Appeal arises is, in fact, to challenge an order of the Director General of Police recording the reason justifying the ultimate punishment of dismissal from service.

3. Plainly the aspect is the issue, upon which the petitioner faced disciplinary proceeding. The charge against the petitioner, in effect, was that he had illicit relationship with another woman, a married woman though married himself. As long as the affairs of the petitioner-appellant were secret and confidential and a privacy between the two individuals, the matter would never have surfaced. Unfortunately, for the petitioner the relationship between him and the woman concerned became matter of administrative knowledge. By the time a probe was made the petitioner was not alone who had known the woman concerned. There were many others with him within the Constabulary. The plain issue is whether this is a serious misdemeanour for a person in uniform. Bihar Military Police is a cadre upto itself, one of the oldest in Bihar and lays a claim to a discipline on regimentation.

4. The petitioner has been to the Court virtually three times for reducing the ultimate punishment. During the course of argument the Court did ask one question from the learned Counsel whether the woman concerned having a relationship with the appellant was a stranger? The answer was not in affirmative.

5. The rest of the record whether on the two petitions or on the present Letters Patent Appeal is a long drawn proceeding on circumstances that the petitioner was not unfamiliar with the woman. The Court is not peeping into the privacy of two people as to what was the degree of the relationship. The contention of the petitioner in his defence was that he had no relationship. It is the petitioner's defence on

record that he was not having any Sharirik Sambandh (body relationship) with the woman. The woman was not a stranger.

6. The Court will leave this matter at this, as it feels that the learned Judge has committed no error in recording the order.

7. Dismissed.

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