

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 422 of 2013 (DB)**

Umesh S/o Prabhakarrao Chapke,  
Aged about 46 years, Occ. Nil,  
R/o C/o Devkinandan General Stores,  
Vidhut Nagar, VMV College Road,  
Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Additional Secretary,  
Home Department Mantralaya,  
Mumbai-32.
- 2) Director General of Police,  
having its office near regal theatre,  
Kulaba, Mumbai.
- 3) Special Inspector General of Police,  
Amravati Range, Amravati.
- 4) Superintendent of Police,  
Amravati.

**Respondents.**

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**S/Shri S.P. Palshikar, N.S. Warulkar, Advs. for the applicant.**

**Shri A.M. Khadatkar, P.O. for respondents.**

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**Coram :- Shri Shree Bhagwan,  
Member (A) and  
Shri Anand Karanjkar, Member (J).**

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**JUDGMENT**

**Per : Anand Karanjkar : Member (J).**

**(Delivered on this 22<sup>nd</sup> day of March,2019)**

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. We have heard the submissions on behalf the applicant and on behalf the respondents. The facts are that the charge sheet at Annex-A-4 was served on the applicant. It was alleged that the marriage of the applicant was solemnized with Sau. Tara Umesh Chapke in the year 1988 and the applicant had two issues out of the wedlock. The applicant joined the service in the year 1991 as Police Constable. In the year 1997 the Police Constable Mangala Sanap joined service. The applicant was in love with Mangala Sanap and they were in illicit relations. The applicant deserted his first wife and two sons and he was cohabiting with Police Constable Mangala Sanap. The first wife of the applicant lodged complaint with the Superintendent of Police under whom the applicant was working, it was informed that the applicant deserted his first wife and he was cohabiting with Police Constable Mangala Sanap and they had one issue. It was also alleged that the applicant was not providing money to his first wife and two issues. The news was published in the news paper that the applicant performed illegal marriage with police constable Mangala. On the basis of this complaint it was decided by the Superintendent of Police, Amravati (Rural) to initiate the departmental inquiry because the conduct of the applicant was not in the interest of the Police Department.

3. The Inquiry Officer was appointed. The Inquiry Officer conducted the inquiry and recorded statements of Shri V.R. Chinchalwar then Police Inspector Crime Branch, Amravati, statement of first wife of the applicant and Police Constable Mangala S. Sanap and Sau. Devki P. Chapke, were recorded. On the basis of the evidence of these witnesses the Inquiry Officer came to the conclusion that the applicant deserted his first legally wife and two issues and thereafter the applicant solemnized second marriage with Mangala Sanap and the applicant has one issue from Mangala Sanap. The Inquiry Officer also observed that this conduct of the applicant was misconduct and it was not expected from the police official, consequently he submitted the report to the Disciplinary Authority.

4. The Disciplinary Authority issued second show cause notice calling upon the applicant to explain why he shall not be dismissed from service. The applicant submitted reply to the second show cause notice and in the notice reply it was specifically alleged by the applicant that his first wife was residing with his parents but after birth of second issue his first wife was unable to satisfy his sex desire, therefore, with consent of the first wife he performed second marriage with Police Constable Mangala Sanap. The applicant also admitted in the reply that Mangala gave birth to one son out of the wedlock. It was also stated by the applicant that in the departmental

inquiry, statement of his first wife was recorded but in order to keep honour of the wife, he refused to cross examine her. He further alleged that his first wife was suffering from venereal diseases, therefore, she gave consent for the second marriage.

5. It is contention of the applicant that opportunity of hearing was not given to him and there was no evidence to prove the misconduct, therefore, order of dismissed is illegal. It is also submitted the order of dismissing the applicant from service is shockingly disproportionate and therefore the order be set aside.

6. On perusal of the record it seems that the departmental appeal was preferred by the applicant, it came to be dismissed in view of the evidence so also the application for review was dismissed. After considering the reply given by the applicant to the second show cause notice it appears that the entire evidence of the first wife of the applicant has gone unchallenged. The applicant did not cross examine his first wife. The applicant also did not cross examine Police Constable Mangala Sanap. It appears that in the inquiry Mangala Sanap deposed before the Inquiry Officer that on 02/02/2000 she solemnized marriage with the applicant in the Gajanan Maharaj Temple, Shegaon and she has one issue from the applicant. Mangala Sanap also narrated that the applicant suppressed the factum of his first marriage with Sau. Tara. Thus it

seems that evidence of Police Constable Mangala was disclosing that the applicant suppressed the fact of his first marriage from her and then he solemnized second marriage with Mangala. The applicant did not cross examine Mangala also. This evidence and admission given by the applicant in his reply to the second show cause notice positively establishes that he performed second marriage with Mangala though his first wife was alive and his first marriage was not dissolved. It must be remembered that the applicant was Police Constable, therefore, it was his duty to respect and obey the law. The applicant violated the statutory provisions and keeping Police Constable Mangala in dark performed second marriage with her. The Police Personnel who has no regard for the law and who has no regard for the legally wedded wife and issues was certainly unfit to serve the Police Department. The act of the applicant performing second marriage after practicing fraud was amounting to criminal offence. Though the applicant is acquitted of offence punishable under section 498 A of the IPC, he cannot take advantage of this fact to minimise the gravity of his misconduct. It seems that the Disciplinary Authority and the Appellate Authority have considered all these aspects and held that the punishment of dismissal from the service was proportionate. We are of the view that the impugned order passed by the Disciplinary Authority dismissing the applicant from the service is correct, legal and proper and no

circumstance is established to interfere in this matter. Hence, the following order –

**ORDER**

The O.A. stands dismissed with no order as to costs.

**(Anand Karanjkar)  
Member(J).**

**(Shree Bhagwan)  
Member (A).**

**Dated :- 22/03/2019.**

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