



2025:DHC:7334-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5048/2022**

ASHWANI KUMAR

.....Petitioner

Through: Ms. Shilpa Saini, Adv with Mr.
Saroj Kr. Singh, Adv.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Farman Ali, SPC with
Ms. Usha Jamnal, Adv. Mr Sanjay Kumar
Insp CISF, Mr. Sunder Lal(AC CISF), Mr.
Prahlaad (AC CISF), SI Rahul Sinha CISF

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **20.08.2025**

C. HARI SHANKAR, J.

1. On the allegation that he had contracted a second marriage while his first marriage was subsisting, the petitioner, who was working as a Constable in the Central Industrial Security Force¹ was subjected to a disciplinary enquiry, culminating in his dismissal from service for having infringed Rule 18² of the Central Industrial Security Force Rules 2001³.

¹ "CISF", hereinafter

² 18. Disqualification - No person, - (a) who has entered into or contracted a marriage with a person having a spouse living; or (b) who, having a spouse living, has entered into or contracted a marriage with another person, shall be eligible for appointment to the Force; Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and there are other grounds for so doing, exempt any person from the operation of this rule.



2. The fact that, during the subsistence of his first marriage, the petitioner contracted his second marriage, cannot be disputed. The petitioner merely seeks to contend that the first marriage was dissolved by signature of a marriage dissolution deed dated 15 October 2017 before “social people and witnesses”. Needless to say, a duly solemnized Hindu marriage cannot be dissolved in such a fashion.

3. Though Rule 18 of the CISF Rules would seem to indicate that the disqualification from contracting a second marriage when the first marriage is subsisting applies only at the stage of *appointment* to the Force, a Division Bench of this Court, in its judgement in *Ex. Head Constable Bazir Singh v UOI*⁴, held thus, in the context of Rule 7⁵ of the Border Security Force Rules:

“9. ... No doubt, this Rule is contained in the chapter ‘Recruitment’ and stipulates that any person who enters into marriage while having a spouse shall not be eligible for appointment. However, if a person with 2 wives is not eligible even for appointment, obviously is not permitted to do so after getting appointment. It would be totally absurd to say that he would be entitled to perform 2nd marriage after he entered the service. The aforesaid rule has to be given pragmatic and constructive interpretation in order to advance and subserve the objective with which the said rule is inserted. The spirit and purport behind the Rule cannot be negated by such a hyper technical approach which the petitioner seeks to advance. The rationale and objective of the Rule is abundantly clear, namely, a person with 2 wives when not made even eligible for appointment and recruitment to the service, he cannot enter into 2nd marriage

³ “the CISF Rules” hereinafter

⁴ Judgement dated 2 May 2008 in WP (C) 8949/2005

⁵ 7. **Disqualification.**—No person,–

(a) who has entered into or contracted a marriage with a person having a spouse living, or
(b) who, having a spouse living, has entered into or contracted a marriage with any person,
shall be eligible for appointment in the force.

Provided that the Central Government may, if satisfied, that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.



after his appointment as well. When an employee so, he would be rendered ineligible to continue in the employment, as that is the basic eligibility condition for the appointment itself.”

Judgements of coordinate Benches are ordinarily binding precedents⁶, with the limited leeway of allowing a reference to a larger Bench, in the event that the judgement is found to be completely unacceptable. That, however, is a course of action which is not to be routinely adopted, so that the confidence of the citizen in the judicial institution, and the interests of consistency, are protected.

4. Besides, the Special Leave Petition preferred against the judgement in *Bazir Singh* was also dismissed by the Supreme Court.

5. Clearly, therefore, Rule 18 of the CISF Rules would also cover the case in which a second marriage is contracted by the employee after he/she joined service.

6. On merits, there is no dispute about the fact that the petitioner contracted the second marriage while her husband’s first marriage was subsisting. The only contention advanced is that the first marriage had been dissolved by signing of a marriage dissolution deed before the persons of the village. We are unaware of any law or principle by which a duly solemnized Hindu marriage can be dissolved by signing a marriage dissolution deed in front of village persons.

7. Clearly, therefore, on merits, the petitioner has no defence.

⁶ *Mary Pushpam v Telvi Cursumary*, (2024) 3 SCC 224



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8. The case is fully covered by the judgment of the Division Bench in *Bazir Singh*.

9. We noted the fact that in *Bazir Singh*, the punishment imposed was of compulsory retirement. Unfortunately, we cannot even reduce the punishment awarded on the petitioner as he has not rendered the qualifying service for compulsory retirement.

10. We are, therefore, unable to come to the aid of the petitioner.

11. The writ petition is accordingly dismissed.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

AUGUST 20, 2025

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