

(2023) 03 MP CK 0141
In the Madhya Pradesh High Court
Case No : Writ Petition No. 6948 Of 2023

Batasiya Maravi

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 29-03-2023

Acts Referred:

Madhya Pradesh Civil Services Pension Rules, 1976 — Rule 47(7)(a)(i)
Madhya Pradesh Civil Services (Conduct) Rules, 1965 — Rule 22, 22(1)

Citation : (2023) 03 MP CK 0141

Hon'ble Judges : Vivek Agarwal, J

Bench : Single Bench

Advocate : Arun Kumar Singh, Manas Mani Verma

Final Decision : Dismissed

Judgement

Vivek Agarwal, J

1. This petition is filed assailing the order dated 13.02.2023 passed by the Superintendent of Police Mandla rejecting claim of the present petitioner to get family pension on account of death of Uttam singh Maravi on 07.09.2021.
2. Rejection order makes a mention of the fact that Shri Uttam Singh Maravi had first marriage with Smt. Rain Kumari and in his service book name of Smt. Rain Kumari is mentioned. Even in the pension case joint photographs of Late Shri Uttam Singh Maravi and Smt. Rain Kumari have been affixed.
3. Petitioner's contention is that late Shri Uttam Singh had divorced his first wife Smt. Rain Kumari and Rain Kumari had sworn an affidavit before the notary public on 07.10.2014 to the affect that she had taken divorce in 1998-99 as per tribal customs and traditions which has legal sanctity. She further deposed that they were staying separately for last 15 years and she has no claim on the body and property of Shri Uttam Singh and both are living separately.
4. It is submitted that petitioner had contacted marriage with Shri Uttam Singh

Maravi on 15.05.2000 and this fact is mentioned in the form which was submitted by Uttam Singh Maravi in the form of Exhibit P-5. Thereafter, a notice was issued by the Superintendent of Police Mandla on 23.09.2014 seeking his explanation, but subsequently a departmental enquiry was initiated. It is submitted that enquiry was not concluded and by implication Shri Uttam Singh was exonerated in that enquiry. Thus , petitioner is entitled to get family pension on account of death of Shri Uttam Singh Maravi.

5. Shri Singh Places reliance on the provisions contained in Rule 47 (7)(a)(i) of the M.P. Civil Services Pension Rules, 1976 wherein it is provided that where the family pension is payable to more widows then one, the family pension shall be paid to the widows in equal share. Reading this provision, it is submitted that even if Rain Kumari is deemed to be first surviving wife then family pension is to be paid in equal proportion between Smt. Rain Kumari and the present petitioner.

6. Shri Singh further submits that Hindu laws are not applicable to the tribal community and therefore, no inference can be drawn on the reading or interpretation of Hindu Marriage Act.

7. Shri Manas Mani Verma submits that petitioner's conduct is against the Madhya Pradesh Civil Services (Conduct) Rules, 1965 and he is not entitled to maintain two wives. It is further submitted that an affidavit sworn in before the notary is not a proof of divorce of the first wife.

8. After hearing learned counsel for the parties and going through the record. It is evident that Rule 22 of M.P. Civil Services (Conduct) Rules, 1965 deals with bigamous marriages.

9. Sub rule 1 of the Rule 22 of the Rules, 1965 provides that "No government servant, who has a wife living shall contract another marriage without first obtaining the permission of the government, notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to him."

10. Thus, it is evident from a plain reading of Rule 22 of M.P. Civil Services (Conduct) Rules 1965, that irrespective of the personal laws no government servant is entitled to contract second marriage without first obtaining the permission of the government. No such permission is produced by the petitioner on record. Thus, petitioner's claim as second wife has no legal sanctity in as much as there is no documentary evidence on record to show that deceased Uttam Singh Maravi had divorced his first wife Rain Kumari. In fact in the affidavit, name is mentioned as Renu Kumari, whereas in the official record, name is mentioned as Rain Kumari. Thus, even the genuineness of the affidavit is also under suspicion.

11. Taking these facts into consideration and the fact that Conduct Rules do not permit second marriage, and Rule 47 (7)(a)(i) deals with the situations, where the law permitted two marriages prior to promulgation of the Conduct Rules

1965 and does not deal with the situations after coming into force of the Conduct Rules of 1965. Therefore, when the whole situation is examined in the light of the Conduct Rules of 1965, then petitioner's contention that she is second wife and is entitled to family pension is not made out because contracting second marriage itself is a misconduct. Thus, the impugned order when examined in the light of the Conduct Rules, then it cannot be said to be illegal or arbitrary. It is a speaking order giving reasons for denial of family pension to the petitioner, who claims to be second wife.

12. Thus, petition being devoid of merit deserves to be dismissed and is hereby dismissed.