
(2014) 05 RAJ CK 0105
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3117 of 2013

Geeta Kanwar

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 29-05-2014

Acts Referred:

Citation : (2014) 4 CDR 1928 : (2015) 1 RLW 179

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Advocate : R.S. Bhardwaj, Advocate for the Appellant; Shiv Raj Singh, Dy. Govt. Counsel, Advocate for the Respondent

Judgement

Mohammad Rafiq, J.—It is an unfortunate dispute between the petitioner and her own daughter, who was granted compassionate appointment under the Rajasthan Compassionate Appointment of Dependants of Deceased Government Servant Rules, 1996 on furnishing of an undertaking in writing in terms of Rule 5(2) of the said Rules that she will properly maintain the petitioner and other family members, who were dependent on the deceased government servant. She has, however, now refused to maintain the petitioner. Contention of learned counsel for the petitioner is that petitioner is widow of the deceased government servant Govind Dan Singh, who was serving as a Cook in Rajasthan Armed Constabulary (RAC) with the government and died while serving on 30.12.1999. At that time, apart from petitioner widow, there were four daughters of the petitioner including the respondent No. 4. Petitioner proposed the name of respondent No. 4-Jatan Kanwar for being appointed on compassionate ground. The respondent No. 4-Jatan Kanwar filed an affidavit with the undertaking that she would properly maintain the petitioner and other family members. Respondent No. 4 was appointed as LDC and at that time, she was unmarried. So long as respondent No. 4-Jatan Kanwar was living with petitioner and other family members, there was no problem, but after she got married in 2007, she started avoiding to maintain the petitioner and other family members. Petitioner therefore submitted

an application to the competent authority for maintenance. On application of the petitioner, a show cause notice was issued by the department to the respondent No. 4 on 9.5.2011 and she was advised to maintain dependents of the deceased government servant. Inquiry in this matter was entrusted to one Shri Rakesh Kumar Singh, Officer on Special Duty and one Shri Ganesh Kumar Gupta, Assistant Accounts Officer on 23.5.2011. The dispute between the parties remained unresolved. It was thereafter that the Director and Deputy Secretary, Language and Library Department issued a show cause notice to the respondent No. 4 on 17.6.2011 calling upon her to properly maintain the dependants of the deceased government and advised that if in future same complaint is received, her appointment may be cancelled. The respondent No. 4 then agreed to pay a sum of Rs. 2,000 per month to the petitioner, but when she defaulted, this writ petition was filed.

2. Shri Amit Jindal, learned counsel for the respondent No. 4 has submitted that in compliance of the aforesaid settlement arrived at between the parties, respondent No. 4 was to pay amount of Rs. 2,000 per month to petitioner, but then further dispute arose between the parties. Petitioner lodged a false criminal case against respondent No. 4 that she has sold their ancestral house and has retained the money with her. However, the fact is that respondent No. 4 has purchased a house out of her own funds. The respondent No. 4 was granted anticipatory bail on that ground.

3. Shri Amit Jindal, learned counsel for respondent No. 4 has argued that respondent No. 4 spent her savings on the marriage of one elder sister and one younger sister and on her own marriage. The youngest daughter of the petitioner has now secured appointment with Allahabad Bank as Officer, who is still unmarried. There is, therefore, no need for the respondent No. 4 to now maintain the petitioner. Besides, the petitioner is in receipt of Rs. 6,555 per month as family pension and even the agricultural ancestral land measuring 98 bighas has been retained by the petitioner, therefore, she could very well maintain herself out of the income received from said agriculture land.

4. Shri R.S. Bhardwaj, learned counsel for the petitioner has rejoined and submitted that the amount of family pension received by the petitioner is only Rs. 4,500 and not Rs. 6,555 and that there is no justification for stopping payment of maintenance for the reason that younger daughter of petitioner got appointment with Allahabad Bank because even after her marriage there would be no one to look after the petitioner.

5. Looking to the fact that the appointment was granted to the respondent No. 4 on compassionate ground on furnishing an undertaking that she will maintain other family members of the deceased government servant, who were dependent on him, petitioner being a widow, would be the first person entitled to get support from the respondent No. 4. Out of other three dependants, two have been married and third one has secured appointment with Allahabad Bank, they may not be entitled to claim any monetary support from the petitioner. But that

cannot be a reason for the respondent No. 4 to refuse to maintain petitioner or otherwise contribute towards her maintenance. Even if therefore the petitioner is in receipt of the amount of Rs. 6,555 as claimed by respondent No. 4 or Rs. 4,500 as per the petitioner, the respondent would be still under obligation to maintain her. Examining the matter from another angle, if there are four daughters, the other two are not in service and are now married and the youngest one who is said to have now secured appointment with the Allahabad bank, may also get married, the respondent No. 4 in any case is under obligation to proportionately support the petitioner as her appointment is solely based on the written undertaking given by her to the department to the above fact in terms of Rule 5(2) of the Rules of 1996 which inter alia provides that appointment under the said Rules shall be given on the condition that the person appointed on compassionate ground shall properly maintain the other family members, who are dependent on the deceased government servant and shall furnish an undertaking in writing to that effect. The Rule further stipulates that if subsequently at any stage it is proved that such dependent family members are being neglected or are not being maintained by him/her, the appointing authority may terminate the appointment after providing an opportunity to the compassionate appointee by way of issuance of a show cause notice to explain why his/her services may not be terminated. In fact, the department issued show cause to the respondent No. 4 that in the event of failure of respondent No. 4 to maintain the petitioner, her appointment may be cancelled. It is another matter that so far the department has not proceeded to cancel the appointment, but had the department cancelled the said appointment, there would be sufficient justification for doing so. The dispute with regard to ancestral land has got nothing to do with the entitlement of the petitioner to claim maintenance from respondent No. 4 on the basis of compassionate appointment granted to her.

6. In the circumstances, the respondent No. 4 has a duty to pay to the petitioner a reasonable amount towards her maintenance out of the emoluments that she receives from the appointment. Ends of justice would be met if the respondent Nos. 1 to 3 are directed to deduct and pay a minimum of 1/4th of the total emoluments payable to the respondent No. 4 to the petitioner so long as she remains alive on month to month basis and directly deposit the same in her bank account, number of which she may intimate to the department now within four weeks. The writ petition is accordingly allowed.