

(2011) 07 UK CK 0140
In the Uttarakhand High Court
Case No : Special Appeal 147 of 2011

Madan Singh Gusain

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 14-07-2011

Acts Referred:

Citation : (2011) 2 UC 1380

Hon'ble Judges : Barin Ghosh, C.J.;Serves Kumar Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—The Government Servants Conduct Rules, 1956 applies to the employees of the State of Uttarakhand. The said Rules specify some basic required conducts on the part of the servants of the Government. One of those conducts, as contained in Rule 29 thereof, is 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.

2. It is urged on behalf of the Appellant, who is a Hindu, that by reason of the provisions contained in Hindu Marriage Act, 1955, no Hindu can solemnize a marriage, when his spouse is living. It is being contended that in such event, Rule 29 of the said Rules does not apply to Hindus, it applies only to Muslims, inasmuch as when it is contemplated that permission may be granted by the Government in the case of a second marriage, the same being barred by the Hindu Marriage Act, 1955, even with the permission of the Government, such marriage cannot be solemnized.

3. In the instant case, one has to keep in mind that the purpose and object of making the said Conduct Rules were to streamline the conduct of the servants of the Government. The Government, by the said Rule, impressed upon all its servants that during continuance of their marriage, they will not marry, and if

they want to do so, they must approach the Government for a permission. The question of a Hindu, as correctly submitted by the learned Counsel for the Appellant, approaching the Government for obtaining such permission will not arise, for even with such permission, in law, the second marriage will have no legal status. In relation to servants, governed by other Personal Laws, where such marriage is permissible, it is up to the Government to permit such a Government Servant to marry more than once or not to do so. Therefore, the underline principle, contained in the Rules, is to ensure that the Government Servants do not marry second time during the subsistence of their existing marriage.

4. In the circumstances, we are also not inclined to hold that the said Rules were not applicable to the Appellant. That having been held by the judgment and order under appeal, we refuse to interfere with the same. The appeal fails and the same is dismissed.