
(2013) 11 RAJ CK 0050
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1461 of 2005

Miti Bai

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 06-11-2013

Acts Referred:

Citation : (2014) 1 SCT 726

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vijay Bishnoi, J.—This writ petition has been preferred by the petitioner, while praying the following reliefs;

- a. That by appropriate writ, order or direction in the nature of mandamus or certiorari the Respondents may be directed to make the payment of arrears of salary, selection grades benefits, gratuity, leave salary and family pension etc. forthwith alongwith interest @ 18% per annum.
- b. By an appropriate writ, order or direction the Respondents may be directed to pay interest upon the delay payments.
- c. By an appropriate writ, order or direction the Respondents may kindly be directed to pay compensation to the tune of Rs. 25,000/- for mental agony, harassment and financial loss caused to the petitioner.
- d. Any other appropriate writ, order or direction as may be deemed just and proper in the circumstances of the case may kindly be passed in favour of the petitioner.
- e. The cost be also allowed to the petitioner.

Brief facts of the case are that petitioner's son Maganlal was appointed as Teacher in Education Department of the Government of Rajasthan on

26.07.1985. He died on 14.03.2000 and his services came to an end by an order dated 28.03.2000 (Annexure-1) passed by the District Education Officer, Elementary Education, Sirohi. After the death of Maganlal, his wife Smt. Godawari Devi remarried to one Harish Kumar son of Chhogaji Kumhar on 29.06.2001 and is residing with her husband. Smt. Godawari Devi wife of late Shri Maganlal has executed an affidavit in this regard, wherein she has stated that after her remarriage, she is not entitled for any of the pensionary or other benefits pertaining to late Shri Maganlal and she has no objection if the said benefits are granted to the petitioner.

2. The petitioner has filed this writ petition, while claiming that despite the declaration/no objection given by Smt. Godawari Devi wife of late Shri Maganlal and several representations, the respondents have not granted any benefits to the petitioner till date.

3. Though the show cause notice and the notice for admission have been served upon the respondents, but no reply to the writ petition has been filed and even no one has appeared on behalf of the respondents to argue the matter.

4. Heard learned counsel for the petitioner.

5. The learned counsel for the petitioner has reiterated the contentions raised in the writ petition and prayed for issuing directions to the respondents to release the retiral benefits to the petitioner as prayed in the writ petition. The learned counsel for the petitioner has placed reliance on a decision of this Court in Dhapu (Smt.) Vs. State of Rajasthan and Another, .

6. As per Rule 66 of the Rajasthan Civil Service Pension Rules, 1996 (for short "the Pension Rules, 1996" hereinafter), the parents include in the definition of the "family". Rule 66(1)(d) of the Pension Rules, 1996 reads as under:

66. Definition

(1) "Family" for the purpose of these rules will include the following relations of the Government servant.

(a).....

(b).....

(c)

(d) parent who were wholly dependant upon the Government servant when he/she was alive provided the deceased employee had left behind neither a widow nor a child and the income of parent is not more than Rs. 2550/- per month.

As per Rule 67 of the Pension Rules, 1996, a widow of Government servant is not entitled for family pension after her remarriage.

7. In the case in hand, the factum of death of Shri Maganlal and remarriage of his widow are not controverted. It is also not proved that at the time of death of

Maganlal, the petitioner was not dependent upon him or her income is more than Rs. 2550/- per month. In view of the aforesaid discussions, this writ petition is allowed with a cost of Rs. 5000/- payable to the petitioner by the respondents. The respondents are directed to grant family pension as well as other benefits admissible to the petitioner in accordance with Rules. The respondents shall ensure the compliance of this order within a period of three months from the date of receipt of a certified copy of this order. It is also made clear that the late payment of retiral benefit shall carry interest as per the provisions of Pension Rules, 1996.