
(2012) 09 DEL CK 0293
In the Delhi High Court
Case No : Writ Petition (C) 4705 of 2012

Parvati Devi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 26-09-2012

Acts Referred:

Hindu Marriage Act, 1955 — Section 5(1)

Citation : (2012) 09 DEL CK 0293

Hon'ble Judges : Siddharth Mridul, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Satish Chand Gupta, for the Appellant; Kumar Rajesh Singh, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—This writ petition is directed against the order dated 11.05.2012 passed by the Central Administration Tribunal, Principal Bench, New Delhi, in T.A. No. 05/2012. The petitioner's plea for compassionate appointment has been rejected. The petitioner was the second "wife" of Late Shri Raja Ram who was employed as Gangman in Delhi Division of Northern Railway. The said Late Shri Raja Ram was posted at Tughlakabad and died in service on 09.12.2000. It was contended by the learned counsel for the petitioner that the petitioner ought to have been granted the benefit of compassionate appointment on account of the fact that her husband had died in service. It was further submitted that though Late Shri Raja Ram had another wife, namely, Smt. Kailasho Devi, the two of them, that is, the petitioner and Kailasho Devi entered into a private arrangement whereby the pension of Late Shri Raja Ram was shared by them. It is further submitted by the learned counsel for the petitioner that Smt. Kailasho Devi's son had applied for compassionate appointment but he could not be given that appointment because he did not have the requisite qualifications. It is because of that reason that the petitioner is now seeking compassionate appointment in place of her deceased "husband" Late Shri Raja

Ram. The Tribunal held that the petitioner cannot have any claim to compassionate appointment inasmuch as she cannot be regarded as a "wife" of Late Shri Raja Ram inasmuch as that would be contrary to section 5(1) of the Hindu Marriage Act, 1955 as the petitioner is alleged to have married Late Shri Raja Ram, when he already had a wife, namely, Smt. Kailasho Devi.

2. The learned counsel for the respondent submitted that they have acted within the four corners of the Circular dated 02.01.1992 issued by the Railway Board, Ministry of Railway, Government of India on the subject of "appointment on compassionate ground- Cases of second widow and her wards." The said Circular reads as under:-

GOVERNMENT OF INDIA (BHARAT SARKAR)

MINISTRY OF RAILWAYS/RAIL MANTRALAYA

(RAILWAY BOARD)

RBE No. 1/1992

No. E (NG) II/91/RC-1/136 dated 02.01.1992

Subject:- Appointment on compassionate grounds -Cases of Second widow and her wards.

It is clarified that in the case of Railway employees dying in harness, etc. leaving more than one widow along with children born to the second wife, while settlement dues may be shared by both the widows due to Court orders or otherwise on merits of each case, appointments on compassionate grounds to the Second widow and her children are not to be considered unless the administration has permitted the second marriage, in special circumstances, taking into account the personal law, etc.

2. The fact that the second marriage is not permissible clarified in the terms and conditions advised in the offer of initial appointment.

3. This may be kept in view and the cases for compassionate appointment to the second widow or her wards need not be forwarded for Railway Board.

4. Kindly acknowledge the receipt.

3. It is apparent upon a plain reading of the said circular that compassionate appointment is not to be given to the second widow unless the administration has permitted the second marriage in special circumstances taking into account the personal law. Insofar as the personal law of the petitioner and Late Shri Raja Ram is concerned, they are governed by Hindu Law and consequently by the Hindu Marriage Act, 1955. That act does not permit a second marriage during the subsistence of a earlier marriage. As such the so-called marriage between the petitioner and Late Shri Raja Ram is not a recognized and valid marriage under Hindu Law. Therefore, there was no question of the administration having considered the question of granting permission for this second marriage. Even

otherwise, as per para 3 of the Circular it is evident that cases for compassionate appointment to the second widow or her wards are not be forwarded to the Railway Board inasmuch as they are not to be considered for the said purpose.

4. In view of the foregoing, there is no merit in the petitioner's case and the petitioner cannot be considered for compassionate appointment. The decision of the Tribunal and the authorities below is correct on this aspect of the matter. The writ petition is dismissed. There shall be no orders as to costs.