
(2003) 02 JH CK 0078

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4426 of 2001

Rama Rai

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-02-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 2 JCR 133

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : Mukesh Kumar, for the Appellant; Ashok Kr. Jha and Aniket Kumar, JC to SC-I, for the Respondent

Final Decision : Dismissed

Judgement

Tapen Sen, J.—Heard Mr. Mukesh Kumar, learned counsel for the Petitioner, Mr. Ashok Kumar Jha, learned counsel for the Respondent No. 5 and Mr. Aniket Kumar, JC to SC-I.

2. The Petitioner has filed this Writ Application wherein she has prayed for payment of the balance provident fund, gratuity, pension and other death-cum-retirement benefits on account of the death / of her husband who died on 28.06.1998 while on duty. The Petitioner has also filed an amendment application wherein she has made a prayer that she should also be given compassionate appointment. According to the Petitioner, the respondents were actively considering her case when all of a sudden, Samal Ahmed, son of the first wife (respondent No. 5) and who according to the Petitioner is a divorcee was given appointment without considering the claims of the Petitioner. At paragraph 14 and 21 of the Counter Affidavit of the Respondent No. 2 (Senior Superintendent of Police, Ranchi), sworn by (The Deputy Superintendent of Police Headquarters), it has been stated as follows :--

"14. That with regard to the statement made in paragraph 8 of the writ

application it is submitted that in this regard it is stated that not a single chit of paper was ever produced either by the deceased Dadan Rai or by the Petitioner before the authorities, which will show that such marriage was solemnized between them. Not only that the Petitioner has made the "Nikahnama" as Annexure "1" to the present writ application but very conveniently she has not attached the same with the writ application, for the reasons best known to her.

21. That with regard to the statement made in paragraph 15 of the writ application it is stated that on very perusal of the Service Book of late Dadan Rai, it is found that when he was posted at Gaya an application was filed by him on 3.7.1978 requesting therein to infer the name of his wife Umrawati Devi, Daughter Molma and son Shyamal Ahmad, in his Service Book. Accordingly those names have been entered in his Service Book. It is also found that subsequently the name of the petitioner has also been entered in his Service Book by another ink by making Umrawati Devi alias Rama Rai. However, no information was ever given by the said Dadan Rai to the Department that he has married the Petitioner or he has divorced the earlier wife. Not only that no order of the competent authority was found in record on the basis of which, the name of the petitioner was entered in the Service Book. As such the claim of the petitioner is not sustainable in the eye of law."

3. It appears therefore that there is a serious dispute with regard to the identity of the Petitioner and such a dispute cannot be resolved in an application under Article 226 of the Constitution of India.

4. The Writ petition is therefore, dismissed. However the Petitioner shall have all liberties to prove and establish her claim before the appropriate authority in accordance with law.

5. Let it, be recorded that this Court has not entered into the merits of the case.