
(2018) 06 JH CK 0071

In the Jharkhand High Court

Case No : Writ Petition (S) No.1261 of 2014

Sarojani Hembram

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 27-06-2018

Acts Referred:

Indian Penal Code, 1860 — Section 323, 494, 498A

Citation : (2018) 06 JH CK 0071

Hon'ble Judges : SHREE CHANDRASHEKHAR, J

Bench : Single Bench

Advocate : Dhananjay Kumar Pathak, Sweta Rani, Shweta Singh

Final Decision : Dismissed

Judgement

1. The petitioners seek a direction upon the respondent-State for payment of post-retiral benefits accrued on death of the employee namely,

Premeshwar Hansda to them.

2. Petitioner no.1 claims that she is wife of the said Premeshwar Hansda and petitioner no.2 is his son born out of the wedlock from his marriage with

one Meera Soren.

3. Plea taken by the petitioners is that after marriage of the employee-Premeshwar Hansda with Meera Soren, out of which one son namely, Manoj

Kumar Hansdapetitioner no.2 and a daughter namely, Manisha Hansda were born, was annuled through divorce under the customary Santhal law on

31.08.1994, petitioner no.1 was married to him and accordingly in the official records such as Voter Identity Card, Ration Card, Aadhar Card etc.

name of Premeshwar Hansda is reflected as her husband. To fortify their claim for receiving the post-retiral benefits, the petitioners have pleaded that

the petitioner no.1 was made nominee in the G.P.F form. The petitioners have also produced the family tree certified by the Circle Officer.

4. Mrs. Shweta Singh, the learned State counsel referring to an order passed in W.P.(S) No.2444 of 2014 submits that claim of Meera Soren who also

claimed herself wife of the employee-Premeshwar Hansda for payment of post-retiral benefits to her has already been rejected by this Court vide

order dated 12.09.2017. She submits that plea taken by the petitioner no.1 that she is the legally wedded wife of said Premeshwar Hansda is an

issue which cannot be decided in a writ proceeding.

5. Reference of the judgment in Complaint Case No.116 of 1995 which has been finally dismissed by an order dated 16.11.2011, in my opinion,

would not confer the status of legally married wife of the employee-Premeshwar Hansda on petitioner no.1. This complaint case was filed for

prosecution of the said Premeshwar Hansda for committing offence under section 494, 498A and 323 I.P.C. The trial judge, while holding that it

has not been established that second marriage of the accused-Premeshwar Hansda in the life time of the first wife would be an offence, finally held

that the said accused cannot be prosecuted for offence under section 494 I.P.C. In fact, judgment in Complaint Case No.116 of 1995 proceeds on the

premise that the petitioner no.1 has admitted that her marriage with the employee-Premeshwar Hansda was performed on 04.07.1995, during life time

of the first wife. May be the petitioner no.1 has taken a stand that her marriage was performed after the employee-Premeshwar Hansda divorced his

first wife namely, Meera Soren on 31.08.1994 under the customary Santhal law, the issues whether marriage of the petitioner no.1 with employee-

Premeshwar Hansda is valid or not and whether she can be treated as the legally wedded wife of the said employee are the issues which can be

decided by a competent court of civil jurisdiction. This issue cannot be decided by a criminal court and this issue cannot be conclusively decided in a

writ proceeding. On the plea that the petitioner no.1 has been made a nominee by the employee in his G.P.F form, suffice would be to indicate that

nomination by itself does not confer a status upon the nominee. All that a nominee in law is entitled to, is to receive the amount of the provident fund

and the nominee ipso-facto does not become the owner of property, that is, provident fund.

6. In view of the serious dispute on the status of the petitioner no.1 and said Meera Soren and the fact that the status of the parties cannot be determined in a writ proceeding, no direction for payment of post-retiral benefits to the petitioners can be issued. Insofar as claim for compassionate appointment to the petitioner no.2 is concerned, it is pertinent to record that no evidence, particularly documentary evidence, has been produced by the petitioners to establish that he is the son of the employee-Premeshwar Hansda. It is not the claim of the petitioners that name of petitioner no.2 appears in the service record of the employee. In this state of pleadings and evidence, no direction for compassionate appointment to petitioner no.2 can be issued.

7. In the result, the writ petition stands dismissed.

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