

(2019) 02 P&H CK 0103

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 21565 Of 2014

Shobha Devi

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 07-02-2019

Acts Referred:

Citation : (2019) 02 P&H CK 0103

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : Sandeep Arora, Mehardeep Singh

Final Decision : Disposed Off

Judgement

Harsimran Singh Sethi, J

In the present writ petition, the prayer is that the petitioner is entitled for the family pension after the death of her husband, namely, Ram Sarup, who died on 17.05.2004.

Learned counsel for the petitioner states that the family pension was not being granted to the petitioner for the reason that as per the pension papers filled by said Sh. Ram Sarup, one Asha Rani was disclosed to be the only legal heir, who happened to be the daughter of Ram Sarup.

Learned counsel for the respondents states that there was no document available with the department to ascertain as to whether petitioner Shobha Devi was the wife of Ram Sarup. No documentary proof came before the department so that the petitioner could be treated as the legally wedded wife of Ram Sarup so as to entitle her for the grant of the family pension. Further, the respondents in their short reply stated that as per the documents filled up by Sh. Ram Sarup, only Asha Rani was mentioned as family member and there is no mention of the petitioner in those documents and, therefore, the present writ petition involves the disputed question of facts.

During the pendency of the writ petition, this Court on 07.12.2016 ordered the Sub Divisional Magistrate, Patiala to conduct an enquiry and give a report to this Court as to whether, there is any record which could show that the petitioner was the legally wedded wife of Sh. Ram Sarup. The said order is as under :-

"In these circumstances, when this court has entertained doubts, let the matter be enquired into by the Sub-Divisional Magistrate, Patiala, who after hearing both the parties and going through the records, make such an enquiry as he deemed fit, shall report to this Court whether Shobha Devi is the legally wedded wife of deceased-Ram Sarup and whether she had re-married to some other person before the death of deceased-Ram Sarup. It is also to be enquired into whether Asha Rani is the real daughter of deceased-Ram Sarup.

The incidental findings can also be recorded by the SDM, Patiala by checking the records of the School in which the deceased-Ram Sarup was working."

In pursuance to the said order, Sub Divisional Magistrate,

Patiala conducted an enquiry and submitted a report to this Court on 20.04.2017. A detailed report has been submitted by the said Officer and after going through various records and the statement made by Asha Rani herself, a finding has been recorded that the petitioner is the legally wedded wife of late Sh. Ram Sarup. The findings are as under :

"From the record produced on file and from the statements of the parties, it is clear that Sobha Rani is wife of Ram Sarup. Asha Rani has also given the statement in favour of Sobha Rani and has disclosed her as mother. No document has come on the record regarding staying of Sobha Rani with Ram Sarup or of marriage some other person and nor any children, whose names are Pushpa Rani, Subash and Asha Rani and Pushpa Rani has expired. Sobha Rani is working as cleaning maid and cleaning utensils in the houses. But Ram Sarup was not allowing her to do this work. Due to this reason there used to be quarrel amongst themselves. Pushpa Rani and Subash and Sobha Rani were residing together and Asha Rani used to reside with her father Ram Sarup. Ram Sarup son of Sh. Molak Ram was working as Mali/Chowkidar at Government Secondary School (Girls), Nabha and was retired from the said department and Ram Sarup expired on 7.5.2004. Ram Sarup and Sobha Rani used to quarrel amongst themselves. Number of times compromise was affected between them with the intervention of Panchayat, school Madams and respectable member of society but no compromise could be successful. Ram Sarup and Sobha Rani used to reside separately from each other. Ram Sarup did not marry any other lady during his life time and nor Sobha Rani had married to some other person.

Sobha Rani produced the photocopy of school leaving certificate of Asha Rani, which has been issued by Govt. Secondary School (Girls), Nabha District Patiala, in which name of the mother is Sobha and father's name has been recorded as Ram Sarup.

Document has come on record regarding legal divorce of Sobha Rani with Ram Sarup. Report is submitted for information and further necessary action please."

Keeping in view the above, learned counsel for the respondents states that the Department will examine the case of the petitioner for the grant of family pension again and will be kept in mind the fresh documents, which have come on record including the enquiry report given by the Sub Divisional Magistrate, Patiala.

Learned counsel for the petitioner has no objection in case the present writ petition is disposed of by giving direction to the respondents to pass an appropriate order in respect of the claim of the petitioner for the grant of family pension after the death of Ram Sarup being his legally wedded wife, in a time bound manner.

The present writ petition is disposed of with a direction to the respondents to pass an appropriate order in respect of the claim of the petitioner for the grant of family pension in view of the facts mentioned above within a period of two months from today. The respondents shall take into account the enquiry report given by Sub Divisional Magistrate, Patiala while considering the case of the petitioner for the grant of said benefit. In case after the decision, it is found that the petitioner is entitled for the family pension, the same should also be released to her within a period of next two months.

Writ petition stands disposed of accordingly.