
(2013) 11 RAJ CK 0074
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2657 of 2007

Smt. Krishna Devi

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-11-2013

Acts Referred:

Citation : (2013) 11 RAJ CK 0074

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : Rakesh Arora, for the Appellant; Hemant Choudhary, for the Respondent

Final Decision : Dismissed

Judgement

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

(1) It is, therefore, humbly prayed that the present writ petition may kindly be allowed and the respondents may kindly be directed to accord family pension to the petitioner.

(2) That the respondents may further be directed to release the due amount of State Insurance in favour of the petitioner.

(3) That the respondents may further be directed to release due gratuity amount in favour of the petitioner.

(4) That the respondents may further be directed to release the due salary of husband of the petitioner which could not be drawn by him during his lifetime.

(5) That the respondents may be directed to pay interest @ 18% per annum on the dues of petitioner as for no reason they have delayed the payment of huge amount for about 16 months.

(6) Any other appropriate order or direction which this Hon''ble Court may deem

just and proper may also be passed in favour of the petitioner.

(7) Cost of the writ petition may also be awarded in favour of the petitioner.

The case set up by the petitioner in this writ petition is that the husband of the petitioner late Bhawani Shankar was serving in the Education Department of the Government of Rajasthan as Teacher Grade III. He died while in service on 18.12.2005. It is contended by the petitioner that earlier her husband Bhawani Shankar was married with one Kamla in the year 1963 but divorced her in the year 1986 and a decree to this effect was issued by the District and Sessions Judge, Jodhpur on 21st of July, 1986. After the said divorce, petitioner got married with Bhawani Shankar on 21.10.1989 and, therefore, she is legally wedded wife of Bhawani Shankar and is entitled for benefits such as family pension, gratuity and amount of state insurance etc. belonging to her husband Bhawani Shankar.

2. In reply to the writ petition, the respondents have denied the claim of the petitioner and contended that Anand Singh S/o late Bhawani Shankar also raised a claim regarding the benefits payable to the family of Bhawani Shankar after his death. It is also contended that the petitioner got married with late Bhawani Shankar in the year 1972 when she herself was married to one Vijay Singh and Bhawani Shankar was married to Smt. Kamla and, therefore, the marriage of the petitioner with Bhawani Shankar was not in accordance with law and she cannot be termed as legally wedded wife of late Shri Bhawani Shankar.

3. The learned counsel for the petitioner has reiterated the grounds raised in the writ petition and has prayed that the relief sought for in the writ petition may be granted to her after declaring her legally wedded wife of late Bhawani Shankar. The learned counsel for the petitioner has further contended that in view of the marriage certificate dated 21st Oct., 1989 issued u/s 13 of the Special Marriage Act 1954, petitioner got married with late Bhawani Shankar in the year 1989 when he had already divorced his first wife in the year 1986 and her husband Vijay Singh was also not alive and, therefore, she is legally wedded wife of late Shri Bhawani Shankar and is entitled for all the benefits as prayed for in this writ petition.

4. Learned counsel for the respondents has argued that the respondent-authorities after thorough inquiry found that the marriage of the petitioner with Bhawani Shankar was not in accordance with law and the petitioner has violated the provisions of Rule 25 of the Rajasthan Civil Services (Conduct) Rules, 1971 (hereinafter referred to as "Conduct Rules of 1971") and, therefore, she is not entitled for any relief.

5. Heard learned counsel for the parties and perused the documents annexed with the writ petition as well as reply.

6. The Block Elementary Education Officer, Panchayat Samiti, Luni has constituted an enquiry committee for deciding the claim of the petitioner as well

as of the son of late Bhawani Shankar. The said Committee submitted its report to the Block Education Officer wherein it is clearly mentioned that as per petitioner's own admission, her marriage was solemnized with Bhawani Shankar in the year 1972 when marriage of Bhawani Shankar with Smt. Kamla was very much in existence and the husband of the petitioner, Vijay Singh was also very much alive and the marriage between the petitioner and Vijay Singh was not terminated. It is also mentioned in the report that marriage of the petitioner with late Bhawani Shankar was in clear violation of Rule 25 of Conduct Rules of 1971.

7. Rule 25 of the Conduct Rules of 1971 reads as under:-

25. Bigamous marriages.-(1) No Government servant who has a wife living shall contract another marriage without first obtaining the permission of the Government, notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to him.

(2) No female Government servant shall marry any person who has a wife living without first obtaining the permission of the Government.

8. During the course of enquiry, when the petitioner herself admitted that she solemnized marriage with late Bhawani Shankar during the existence of her earlier marriage with Vijay Singh and has not proved that before doing that she has obtained permission of the government, the finding of fact recorded by the enquiry committee that the marriage of the petitioner with late Bhawani Shankar was in violation of provision of Conduct Rules 1971, is not liable to be interfered with.

9. Moreover, the petitioner has not challenged the finding of the Enquiry Committee and in such circumstances, looking to the finding of the Enquiry Committee, no relief can be granted to the petitioner. Hence, this writ petition is hereby dismissed.