
(2013) 12 MP CK 0166

In the Madhya Pradesh High Court

Case No : Writ Petition No. 20533 of 2013

Smt. Shivwati Bai and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 04-12-2013

Acts Referred:

Citation : (2013) 12 MP CK 0166

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Advocate : Shailesh Tiwari, for the Appellant; Rajul Jain, D.A.G. for the State, for the Respondent

Final Decision : Disposed Off

Judgement

Rajendra Menon, J.—Petitioners' claim to be legal heirs of late Shri Dhaniram Tekam. Late Dhaniram Tekam was in the service of the State Government and was working in the Veterinary Medical College. He died in harness on 25/06/2008 while working as Assistant Veterinary Field Officer and at the relevant time he was posted in Veterinary Hospital, Rajo, Block Bichiya, District-Mandla. It seems that late Shri Dhaniram Tekam belonged to the Gond community which falls in the Scheduled Tribe category and as per the custom prevailing in the community he has contracted two marriages. Petitioner No. 1 is the second wife of late Shri Dhaniram, petitioner Nos. 2 and 3 are the issues from this second marriage and respondent No. 6 is the first wife of the late Shri Dhaniram. After the death of late Shri Dhaniram, it seems that certain disputes have arisen with regard to distribution of the benefits accruing to the legal heirs and on the basis of order of the V Civil Judge, Class-I, Mandla in certain proceedings held u/s 372 of Indian Succession Act, as is evident from Annexure P/4 dated 28/04/2009, the payment of benefit have been made between the surviving legal heirs of late Shri Dhaniram Tekam, however, now the question is with regard to settlement of family pension payable to the surviving legal heirs in accordance with M.P. Civil Services (Pension) Rules 1976. The petitioners and respondent No. 6 are making

the claim for family pension and as a decision is yet to be taken, petitioners have filed this writ petition. Shri Shailesh Tiwari, learned counsel for petitioners invites my attention to the provisions of sub-rule 7(a)(i) of Rule 47 of circular date 30th August, 1989 issued in the matter, available at page 43 of the paper book and says that in an such eventuality when the deceased employee is survived by two wives, the rule in question as referred to hereinabove contemplates the provision for settlement of the claim for family pension, therefore seeking a direction to the respondent to settle the claim, this writ petition has been filed.

2. Keeping in view the aforesaid grievance of the petitioner and on perusal of Rule 47(7)(a)(i) and the circular, it is clear that certain provisions have been made in the matter for grant of family pension. However the circular in question is of the year 1989 and there is no material to show that subsequently thereof any other circular has been issued by the State Government or not, however, Rule 47(a) of the Pension Rules contemplates a provision for resolution of such a dispute.

3. Keeping in view the aforesaid, it is directed that on the petitioner filing a certified copy along with relevant documents the competent authority of the department shall take into consideration the requirement of the statutory rules as indicated hereinabove, circular as may be applicable and after considering rival claims including the claim of respondent No. 6 shall decide the claim with regard to payment of the family pension within a period of three months from the date of receipt of certified copy of this order. It may be clarified that this court has not expressed any opinion on the rival claims of the surviving legal heirs, it is exclusively for the respondents to evaluate the claim in the light of circulars, policies as applicable and decide in accordance with law.

4. With the aforesaid direction, this petition is disposed of. Certified copy as per rules.