

(2010) 11 SHI CK 0179
In the High Court Of Himachal Pradesh
Case No : CWP No. 776 of 2008

Vijay Kumari

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 10-11-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 11 SHI CK 0179

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Judgement

Surjit Singh, J.—Heard and gone through the record.

2. Issue involved in the present writ petition is whether the Petitioner is the wife of deceased government servant, named Inderjit Singh and, hence, entitled to family pension. Said Inderjit Singh died in the year 1994, and the present Petitioner, on his death, was granted family pension, treating her as the wife of said Inderjit Singh. After some time, mother of the deceased made a complaint to the authorities that the Petitioner was not the wife of her deceased son Inderjit Singh, but wife of one Raj Kumar.

3. Petitioner was called upon by the concerned authorities to produce documents, showing that she was the wife of deceased Inderjit Singh. She having failed to produce any document, order of payment of family pension was withdrawn. Petitioner then filed a civil suit in the Court of Civil Judge, who vide judgment dated 29.2.2008, held that the matter being cognizable by the H.P. State Administrative Tribunal, he did not have the jurisdiction.

4. Now, the Tribunal has been scrapped. Issue involved requires a finding after full-fledged trial. This Court, while exercising its extraordinary power, under Article 226 of the Constitution of India, is not supposed to hold trial and to record a finding of fact, with respect to which parties are at issue. So, petition is dismissed. Petitioner may, if so advised, file a civil suit. It is ordered that while

computing limitation for the suit that the Petitioner may file, period spent by her in prosecuting the earlier suit as also the present writ petition, shall be excluded.