

(1991) 03 KL CK 0042
In the High Court Of Kerala
Case No : O.P. No. 10905/87

Vilasini Amma

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 13-03-1991

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 54(14)

Citation : (1991) 03 KL CK 0042

Hon'ble Judges : Varghese Kalliat, J

Bench : Single Bench

Advocate : M.C. Sen and Babu Varghese, for the Appellant; K.B. Subhagamani, for Respondents 1, 2 and 4, for the Respondent

Judgement

Varghese Kalliat, J.—Petitioner is a widow of one Parameswaran Nair, who was discharged from military service on 21st December 1957. Parameswaran Nair died, 7th August 1966. According to the Petitioner, she is entitled to family pension. She applied for it. Her application was rejected on 20th December 1986. Copy of the order is Ext. P-7. The only reason stated in Ext. P-7 to reject the application of the Petitioner is that she is not entitled to pension, since the Petitioner married the deceased after the retirement.

2. True, the Petitioner married the deceased on 15th January 1959. But, this is not a bar for claiming family pension, under the scheme, Ext. P-I, modified by Ext. P-4. I say so, because this aspect of the matter was considered by the Supreme Court in the decision reported in Smt. Bhagwanti Vs. Union of India (UOI), and the Supreme Court observed the basic principle for providing family pension and the right of the spouse and child to obtain family pension. The Supreme Court observed thus:

Pension is payable on the consideration of past service rendered by the Government servant. Payability of the family pension is basically on the self-same consideration. Since pension is linked with past service and the avowed purpose of the Pension Rules is to provide sustenance in old age, distinction

between marriage during service and marriage after retirement appear to be indeed arbitrary. Thus there is no justification to keep post-retirement marriage out of the purview of the definition of the term "family" in Rule 54(14)(b) of the Rules.

3. The above quote relates to Central Civil Services (Pension) Rules. Same is the position in regard to pension payable to the family of persons in military service. In the same decision Smt. Bhagwanti Vs. Union of India (UOI), a case of a military personal-an ex Subedar of Indian Army was also considered and the Supreme Court held that family pension is payable to wives of post retirement marriage of the employees and their children.

4. Since Ext. P-7 order was passed rejecting the application only on the ground that the Petitioner married the deceased after his retirement, I have no hesitation to hold that Ext. P-7 is unsustainable. I quash Ext. P-7 order and direct the Respondents to quantify the pension, and disburse the same without any delay to the Petitioner. O.P. is allowed.