

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9985/2011

SARWANI DEVI

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

O R D E R

This Civil Appeal is directed against order dated 30th August, 2005 passed by the High Court of Judicature of Rajasthan, Bench at Jaipur in D.B.C Writ Petition(C) No.5438 of 1993 whereby claim of family pension of writ petitioner Smt. Anchi Devi (respondent no.6 herein) was allowed and the pension, which was being paid to respondent (appellant before us) was directed to be stopped after notice to her.

Brief facts of the case are that Shri Rajender Singh, husband of the appellant, was a constable in Central Reserve Police Force, who died on 17th February, 1983 during the period of active service. The appellant being widow was granted liberalized pension on the death of Shri Rajender Singh. It appears that she got remarried on 30th June, 1989 to one Shri Rohtash Kumar. Subsequent to her remarriage, she was granted ordinary pension.

Respondent no.6, Smt. Anchi Devi, the mother of the deceased constable, filed a Writ Petition before the High Court claiming family pension on the ground that appellant Smt. Sarwani Devi had got remarried. In the Writ Petition, Smt. Sarwani Devi (the present appellant) was not impleaded as a party. The High Court while allowing the Writ Petition filed by respondent no.6 directed that the respondent authorities may discontinue the benefits given to the widow of Shri Rajender Singh.

The impugned order dated 30th August, 2005 was earlier challenged by the Union of India in Special Leave Petition No.11715-11716 of 2008 which was dismissed by this Court vide order dated 26th August, 2010 keeping the question of law open.

It appears that the respondent authority acting on the impugned order, passed the order dated 11th December, 2010 (Annexure P/14) whereby the family pension granted to the appellant was stopped and recovery was directed to be made.

We have heard learned counsel for the parties and perused the papers on record. It is relevant to mention here that the appellant was not a party to the Writ Petition wherein the impugned order was passed, and consequent to the order of the High Court the family pension of the appellant was stopped and recovery was directed to be made.

Rule 12 of Central Civil Services (Extraordinary Pension) Rules, 1939 which is applicable to the case at hand, reads as under:-

"12(1) A family pension will take effect from the day following the death of the Government servant or from such other date as the President may decide.

(2) A family pension will ordinarily be tenable-

(i) in case of widow or mother until death or remarriage, whichever occurs earlier;

(ii) in case of minor son, or minor brother, until he attains the age of twenty-one;

(iii) in the case of an unmarried daughter or minor sister, until marriage or until she attains the age of twenty-four, whichever occurs earlier;

(iv) in the case of a father, life.

Note:- The family pension of a widow will cease on remarriage but when such remarriage is annulled by divorce, desertion or death of the second husband, her pension may be restored upon proof that she is in necessitous circumstances and otherwise deserving."

Learned counsel for the appellant drew our attention to the copy of death certificate (Annexure P/15) regarding death of Shri Rohtash Kumar to whom the appellant got remarried on 13th June, 1989. This document shows that Shri Rohtash Kumar died on 21st September, 2009. Apart from this, Rule 54 of the Family Pension Rules, 1964 provides that the childless widow of the deceased Government employee shall continue to be paid family pension even after her remarriage,

subject to the condition that the family pension shall cease once her independent income from all other sources becomes equal to or higher than the maximum prescribed family pension in the Central Government.

Learned counsel for the respondent admits that even after remarriage, the appellant was entitled to normal family pension under Rule 12 as provided under the note appended therein. It is also relevant to note here that respondent no.6, Smt. Anchi Devi has expired on 11th February, 2012, as is evident from I.A.Nos.6 and 7 of 2014 in Civil Appeal No.9985 of 2011 and the death certificate (Annexure A/I to the said I.As.). As such there is no question of two persons claiming family pension thereafter.

In the above circumstances and in view of the fact that Shri Rohtash Kumar to whom appellant is said to have been remarried has died on 21st September, 2009, and further considering note appended to Rule 12 of the Central Civil Services (Extraordinary Pension) Rules, 1939, we are inclined to accept the case of the appellant that she is actually entitled to the family pension and she is wrongly deprived of the same under the directions passed by the High Court in the Writ Petition in which she was not a party.

Therefore, this appeal is allowed and the impugned order is set aside to the extent the directions issued by the High Court, adverse to the interest of the appellant. Consequently, the order No.P.3-10/83-Pension dated 11th December, 2010 is also set aside.

The family pension awarded to the appellant is restored w.e.f. 11th February, 2012 and no recovery shall be made from the appellant in respect of pension already paid to her. The dues payable w.e.f. 11th February, 2012 shall be paid within a period of three months from today.

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[PRAFULLA C. PANT]

.....
[D.Y. CHANDRACHUD]

NEW DELHI
MAY 24, 2016.

ITEM NO.102

COURT NO.2

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCivil Appeal No(s).9985/2011

SARWANI DEVI

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With interim relief and office report)

Date : 24/05/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PRAFULLA C. PANT
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
(VACATION BENCH)For Appellant(s) Mr. Chirag Jamwal,Adv.
Ms. Minakshi Vij,Adv.For Respondent(s) Ms. Asha Gopalan Nair,Adv.
Ms. Nivedita Nair,Adv.
Ms. Savitri Terdal,Adv.
Ms. Mamta Saxena,Adv.

Mr. Shreekant N. Terdal,Adv.

Mr. Sudhir Kumar Gupta,Adv.

UPON hearing the counsel the Court made the following
O R D E R

The civil appeal is allowed in terms of the signed order.

(SAPNA BISHT)

SR.P.A.

(Signed order is placed on the file)

(JASWINDER KAUR)

COURT MASTER