

PETITIONER:
JETHI DEVI

Vs.

RESPONDENT:
BHAKRA BEAS MANAGEMENT BOARD AND ANR

DATE OF JUDGMENT 24/08/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1995 SCC (6) 61 1995 SCALE (5) 171

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

This appeal by special leave arises from the judgment and decree dated October 22, 1993 of the High Court of Himachal Pradesh in RSA No.261/92. Admitted facts are that when Om Dass, a Government servant died in harness, a prayer was made to rehabilitate one of the dependents. His widow, the appellant herein laid the claim for appointment as a Class IV employee and was so appointed. When her services were terminated, she filed Suit No.6/88 filed in the court of Subordinate Judge, Mandi, H.P. and the Chief Judge by the judgment and decree dated November 30, 1989 decreed the suit. On appeal, it was confirmed. But in the second appeal, the High Court reversed the decree primarily on the ground that in the enquiry conducted by the respondent Board revealed that the appellant had married Chandermani, the brother of Om Dass, and she concealed the factum of marriage and the birth of a daughter. Therefore, she is not a widow of Om Dass, the deceased employee. It was also found that she gave a false affidavit. Consequently, she is not entitled to the benefit of rehabilitation scheme.

The question is whether the appellant had made any false statement. It is clear from the written statement filed by the respondent in the trial Court, enclosing the enquiry report submitted by S.D.O.(c) Chachiot, that the appellant and her husband Om Dass were living as members of the Hindu joint family with Chandermani, her brother-in-law, and other members. On enquiry, it was also revealed that the marriage between Chandermani and the appellant was not solemnised and a child was born to the latter.

Under these circumstances, three crucial facts emerge. One, Chandermani, Om Dass, the appellant and other members were living together as members of the Hindu joint family. Second, Om Dass, the Government servant, died in harness. Third, it would appear that after the demise, though the appellant was living with Chandermani, no legally solemnised

marriage took place. In other words, they were living together as man and woman and woman and a child was born to them.

The question which, therefore, emerges is whether the appellant made any false statement and whether she ceased to be widow of Om Dass. In view of the fact that no legally solemnised marriage exists, she is not incorrect in stating that she is the widow of Om Dass. It is also revealed that since they are the members of the joint family, her statement about the dependence is not false. If these two facts are excluded, there is no other ground to disentitle her to claim for the benefit of appointment as per the rehabilitation scheme. Accordingly, we hold that the High Court was not right in reversing the decree of the trial Court and the appellate Court and dismissing the suit.

The appeal is allowed. The decree of the trial court is restored. However, the appellant will be entitled to back wages from 30.11.1989 only, the date on which the suit was decreed. No costs.