

JETHI DEVI  
v.  
BHAKRA BEAS MANAGEMENT BOARD AND ANR.

AUGUST 24, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Service Law.*

*Compassionate appointment—Government employee—Death of—Widow—Appointment of—Termination—Ground of Concealment of marriage—Employers' enquiry—Report that widow living with brother-in-law but marriage not legally solemnized—Held wife of deceased was right in stating that she was widow of deceased employee—Held not guilty of making false statement—Termination—Held invalid.*

The appellant, wife of a deceased Government employee, was appointed to a class IV post by the Respondent-Board on compassionate grounds. Later, her services were terminated on the ground that she was not entitled to the benefit of rehabilitation scheme as she had married the brother of her deceased husband; concealed the factum of marriage and birth of daughter. The enquiry conducted by the respondent-Board revealed that (i) the appellant was living as member of joint family with her brother-in-law and other members; (ii) after the death of appellant's husband she was living with her brother-in-law and a child was born to her but no legally solemnized marriage took place. The appellant filed a suit challenging the dismissal which was decreed by the Trial Court and affirmed by the First Appellate Court. However, on second appeal the High Court dismissed the appellant's suit and reversed the decree of courts below holding that the appellant ceased to be the widow of the deceased employee and that she gave a false statement. Hence this appeal.

Allowing the appeal, this Court

**HELD :** In view of the fact that no legally solemnized marriage exists, the appellant is not incorrect in stating that she is the widow of the deceased Government employee. It is also evident that being the member 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

**A** benefit of appointment as per the rehabilitation scheme. Therefore, the High Court was not right in reversing the decree of the trial court and the First Appellate Court and dismissing the suit. The appellant will be entitled to back wages from the date on which the suit was decreed. [55-D-E]

**B** CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7920 of 1995.

From the Judgment and Order dated 22.10.93 of the Himachal Pradesh High Court in R.S.A. No. 261 of 1992.

**C** Anil Nag and Rajeev Kr. Singh for the Appellant.

Dr. N.M. Ghatate, Ms. Pramit Saxena and S.V. Deshpande for the Respondents.

The following Order of the Court was delivered :

**D** Leave granted.

**E** 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, **F** 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 **G** 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 **H** 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.

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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 a child was born to them.

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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.

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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.

T.N.A.

Appeal allowed.