

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
SRINAGAR**

Reserved on: 17.04.2026

Pronounced on: 24.04.2026

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*Whether the operative part or
full judgment is pronounced:
Full*

WP(C) No.881/2021

MAHROOFA AKHTER & ORS.

...PETITIONER(S)/APPELLANT

Through: - Mr. Khan Sameer, Advocate.

Vs.

UNION OF INDIA & ORS.

...RESPONDENT(S)

Through: - Mr. Gulzar Ahmad Bhat, Advocate.

Mr. Qazi Rashid Shamas, Advocate.

*Mr. T. M. Shamsi, DSGI, with Ms. Yasmeen
Jan, Advocate*

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) The petitioners, through the medium of present petition, have sought quashment of details of family members of Rifleman Late Abdula Majeed Dar as enrolled in his official records. The petitioners have also sought a direction commanding the official respondents No.1 to 5 to enroll the petitioners in the service record of the deceased Rifleman Abdul Majeed Dar and to release their due share from the service and pensionary benefits of the deceased with a further direction upon the said respondents not to release any amount of service benefits/pensionary benefits of the deceased in favour of private respondents No.7 to 10.

2) As per case of the petitioners, petitioner No.1 happens to be the widow and petitioners No.2 and 3 happen to be the daughters of deceased Rifleman Abdul Majeed Dar who was working with 160 Infantry Bn. (TA) JAKLI and was posted at Zainapora District Shopian at the time of his death on 12.12.2020 during his service. It has been submitted that the deceased had contracted second marriage during the subsistence of his first marriage with respondent No.7 and out of the said wedlock, respondents No.8 to 10 were born. It has been submitted that a matrimonial dispute arose between petitioner No.1 and the deceased because he had contracted second marriage with respondent No.7 and this resulted in filing of a petition for grant of maintenance in favour of petitioners No.2 and 3. However, petitioner No.1 did not claim any maintenance for herself. Vide order dated 28.01.2016 passed by the learned Special Mobile Magistrate, Anantnag, maintenance to the tune of Rs.10,000/ was granted in favour of petitioners No.2 and 3. After death of the deceased, no maintenance is being paid to the said petitioners.

3) It has been submitted that the petitioners filed a representation to the Ministry of Defence, Government of India, seeking information regarding family pension and service benefits of the deceased with a further request to

consider them as legal heirs of the deceased. Vide communication dated 10th February, 2021, the petitioners were informed that the deceased has enrolled respondents No.7 to 10 as his family members in the official records.

4) The petitioners are stated to have preferred an application for grant of succession certificate before the Court of learned Principal District Judge, Anantnag, and a direction was issued by the said Court to respondents No.3 and 4 to submit report with regard to amount left behind by the deceased. However, respondents No.3 and 4 failed to furnish the details before the Court and ultimately learned Principal District Judge, Anantnag, dismissed the said petition for grant of succession certificate. It has been submitted that respondents No.7 to 10, in their objections to the petition for grant of succession certificate, raised a plea that petitioner No.1 is not entitled to any benefit of the deceased as she is a divorcee, without there being a proof in support of their said contention.

5) It has been further contended that respondents No.7 to 10 taking undue advantage of their enrolment as family members of the deceased, hatched a conspiracy with respondent No.6 and got the amount released in their favour. It has been submitted that respondent No.6 was requested by the petitioners not to release any amount in favour of

respondents No.7 to 10 but to no avail, hence the present writ petition.

6) Respondents No.1 to 5, in their reply to the writ petition, have submitted that Rifleman Abdul Majeed Dar was enrolled in 162 Infantry Battalion (Territorial Army), Jammu and Kashmir Light Infantry on 24th September, 2004. It has been submitted that Shri Dar was attached with 1st Rashtriya Rifles Battalion since 2018 for operational duties and on 12th December, 2020, while establishing cordon for specific search operation at Chitragam Shopian, he fell inside a Nallah and lost his consciousness. It has been submitted that Rifleman Abdul Majeed Dar was evacuated to hospital where he was declared dead. Upon death of Shri Dar, his field service documents were closed and submitted to Jammu and Kashmir Light Infantry record office in terms of communication dated 16th December, 2020.

7) It has been submitted that on 8th February, 2021, petitioner No.1, claiming herself as the first legally wedded wife of the deceased, made a representation which was responded to by informing her that entry of family members, namely, respondents No.7 to 10 herein, has been recorded in the service documents of the deceased. She was further advised that as per the policy in vogue, after the death of an individual, all future correspondence is to be made through

Zila Sainik Welfare Office. She was also informed that because none of the documents of the deceased soldier are held with the unit, as such, no amendment in his service documents can be made by the unit. She was, accordingly, advised to process her case through Zila Sainik Welfare Officer, respondent No.4 herein.

8) It has been submitted that on 10.02.2021, the official respondents received an order from Principal District Judge, Anantnag, asking for details of amount left in the name of the deceased. In response, the unit vide its communication dated 24th February, 2021, informed the Court that as per existing policy, the documents of the deceased soldier have been forwarded to JKLI record office, so no details are available. It has been further submitted that Zila Sainik Welfare Office, Batamaloo, was asked to investigate and look into the grievance of the petitioners. It has been further submitted that Zila Sainik Welfare Office, Batamaloo, intimated that petitioner No.1 has not been registered with the said office, as such, no comments could be forwarded. It has also been contended that the writ petition involves disputed and complicated questions of fact which cannot be adjudicated in writ jurisdiction.

9) Respondent No.6-State Bank of India, in its reply to the writ petition, has submitted that it has no role to play in the

dispute and that it has been un-necessarily arrayed as party to the petition. It has been submitted that respondent No.6, as a banker, is bound by the pension payment order issued by the authority responsible for distribution of pension and it cannot act independently of the order. It has been submitted that in the present case, respondents No.1 to 5 have issued pension payment order which is being acted upon by respondent No.6.

10) Respondents No.7 to 10, in their reply to the writ petition, have submitted that the petitioners have raised disputed questions of fact which cannot be determined by this Court under writ jurisdiction and that the petitioners have suppressed material facts from this Court.

11) According to respondents No.7 to 10, marriage between petitioner No.1 and the deceased was dissolved, whereafter the deceased contracted second marriage with respondent No.7. It has been submitted that petitioner No.1 has submitted an affidavit on oath before the Court of learned Chief Judicial Magistrate, Anantnag, in which she has admitted that she is a divorcee and this fact has been suppressed by her in the present petition. It has been submitted that petitioner No.1 never claimed any maintenance for herself from the deceased because her

marriage with the deceased had already been dissolved. Therefore, she does not qualify to be a legal heir of the deceased. It has been further contended that application of petitioner No.1 for grant of succession certificate has been dismissed by the Principal District Judge, Anantnag, vide order dated 08.03.2021 and the said order has attained finality.

12) It has been contended that the competent authority has issued legal heir certificate dated 02.03.2021, in which names of petitioners No.2 and 3 are also included and besides this, the names of respondents No.7 to 10 also figure in the said certificate issued by Tehsildar, Anantnag, East Mattan. To support the assertions made in their reply, respondents No.7 to 10 have annexed the relevant documents along with their reply.

13) I have heard learned counsel for parties and perused record of the case.

14) The claim of the petitioners is that marriage of petitioner No.1 with the deceased was subsisting at the time of his death and because she was legally wedded wife of the deceased, as such, her name is required to be enrolled in the service documents of the deceased being his legal heir. To support their contention that the petitioner No. 1 was the

legally wedded wife of the deceased, the petitioners have relied upon copy of Nikah Nama.

15) So far as private respondents 7 to 10 are concerned, they have not disputed the marriage of petitioner No.1 with the deceased. Their contention is that marriage between petitioner No.1 and the deceased was dissolved, whereafter he entered into a second wedlock with respondent No.7. Respondents No.7 to 10 have, however, not disputed the fact that petitioners No.2 and 3 happen to be the children of the deceased from his first marriage. In support of their contention that marriage between petitioner No.1 and the deceased was dissolved, respondents No.7 to 10 have relied upon the admission made by petitioner No.1 to this effect in the application filed by her on behalf of petitioners No.2 and 3 seeking enhancement of maintenance under Section 489 of J&K Cr. P. C before the Court of Chief Judicial Magistrate, Anantnag. A copy of the said application has been placed on record, which shows that in the title of the petition itself, petitioner No.1 has clearly mentioned that she is divorcee of Abdul Majeed Dar. In the affidavit accompanying the said application, it is mentioned that petitioner No.1 is the divorcee of Shri Abdul Majeed Dar. Even the order passed by the learned Magistrate on the said application reflects the

particulars of petitioner No.1 as divorcee of Abdul Majeed Dar.

16) The authenticity of aforesaid documents has not been disputed by the petitioners. The only contention that has been urged by learned counsel for the petitioners to dispute the factum of divorce is that respondents No.7 to 10 have not placed on record anything to show that a formal divorce had taken place between petitioner No.1 and the deceased.

17) I am afraid the contention raised by learned counsel for the petitioners is misconceived because it is a settled law that facts admitted need not be proved. Petitioner No.1 has not disputed the authenticity of the documents placed on record by respondents No.7 to 10, which clearly show that petitioner No.1 has projected herself as divorcee of Late Abdul Majeed Dar. In the absence of any material to the contrary, it was not necessary for respondents No.7 to 10 to produce any other material to show that marriage between petitioner No.1 and the deceased had been dissolved.

18) Apart from the above, respondents No.7 to 10 have placed on record the legal heir certificate issued by Tehsildar, Anantnag, Mattan East, which reflects the names of petitioners No.2 and 3 as also the names of respondents No.7 to 10 as legal heirs of deceased Abdul Majeed Dar. The

name of petitioner No.1 is missing in the said legal heir certificate. It has been specifically noted in the said Certificate that petitioner No.1 had filed an affidavit before the Special Mobile Magistrate, Anantnag, wherein she had accepted that she is divorcee of the deceased. Petitioner No.1, it seems, had challenged the aforesaid legal heir certificate by way of an appeal before the Deputy Commissioner, Anantnag, and the said appeal has been dismissed vide order dated 21.10.2021. It seems that petitioner No.1 has now filed a revision petition before the Divisional Commissioner, Kashmir, which is still pending.

19) Besides this, it is an admitted case of the parties that the petitioners filed an application for grant of succession certificate before the Court of learned Principal District Judge, Anantnag, in which respondents No.7 to 10 were also impleaded as the parties. The said application stands dismissed by the District Judge in terms of order dated 18.03.2021. The said order of the District Judge has attained finality. In the face of this overwhelming record, it can safely be stated that the marriage between petitioner No.1 and the deceased was not subsisting at the time of his death and, therefore, petitioner No.1 does not qualify to be a legal heir of the deceased.

20) There is yet another aspect of the matter which is required to be noticed. In the service record of the deceased, names of petitioners No.2 and 3 are not reflected. Admittedly, petitioners No.2 and 3 are daughters of deceased Abdul Majeed Dar from his first marriage. Their names are also included in the legal heir certificate dated 02.03.2021 issued by Tehsildar Anantnag East (Mattan). Therefore, their names are required to be reflected in the service documents of the deceased as maintained by the official respondents.

21) In view of the foregoing discussion, the petition is partly allowed and the same is disposed of with a direction to the official respondents to include the names of petitioners 2 and 3 in the service record/documents of deceased Rifleman Abdul Majeed by treating petitioners No.2 and 3 as legal heirs of the deceased. Thereafter the service/terminal benefits standing to the credit of the deceased shall be released in favour of his legal heirs including petitioners No.2 and 3 as per their shares in accordance with the law.

**(Sanjay Dhar)
Judge**

SRINAGAR
24.04.2026
"Bhat Altaf-Secy"

Whether the **judgment** is reportable: **YES/NO**