

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CM-11582-C-2017 in/and
RSA No. 386 of 2004
Date of Decision: 8.11.2017

PUSHPA DEVI

....PETITIONER

VS

KANTA DEVI AND ANR.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr.R.N.Moudgil, Advocate
for the non-applicant-respondent.

Mr. C.L.Sharma, Advocate
for applicant-appellant.

AJAY TEWARI, J.(Oral)
CM-11582-C-2017

This is an application for early hearing of the main appeal.

For the reasons recorded in the application, the same is allowed
and the appeal is heard today itself.

Main case

This appeal has been filed against the judgment of the lower
appellant Court reversing that of the trial Court and thereby decreeing the suit
filed by the respondent. The respondent was the wife of Ramesh Kumar and
after his death in service claimed the family pension. This was resisted by the
appellant on the ground that during the life time of the deceased the parties
have been living separately and in proceedings under Section 125 Cr.P.C the
respondent had taken a lump sum compensation of Rs. 60,000/- in full and
final settlement of all her claims for maintenance, istridhan and against the
estate of her husband including service benefit and therefore she was not
entitled to the same and rather she being a mother who was wholly dependent

on the deceased was entitled to the same. The trial Court dismissed the suit but the appellate Court held that once the marriage between the respondent and Ramesh kumar was not held to have been dissolved then she continued to be the widow and the mere fact that in a proceedings under Section 125 Cr.P.C. she had accepted the certain amount full and final settlement would not disentitle her from claiming the family pension.

Learned counsel for the appellant has argued that once the respondent had unequivocally stated that she had relinquished her right then service benefits of Ramesh Kumar and the family pension is to be granted to the mother and not to wife.

In my opinion, this argument is misconceived. As per the Rules governing the grant of family pension, those parents who are wholly dependent can be considered within the definition of family only if the deceased does not leave behind a widow or children. Once that is so the mere fact that the respondent had allegedly relinquished her claim would not change the fact that Ramesh Kumar was survived by a widow and once that is so the mother in any case could not be taken within the definition of family.

Consequently, appeal has to be dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

8.11.2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No