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Writ Petition No.4570 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.02.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**W.P.No.4570 of 2024 &
WMP.No.4989 of 2024**

1.Union of India,
Rep., by its
The Superintendent of Post Office,
Pudukkottai Division,
Pudukkottai District – 622 003. ... Petitioner
Vs

1.M.Gurunathan
2.The Registrar,
Central Administrative Tribunal,
Chennai Bench,
Chennai – 600 104. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent Tribunal in O.A.No.5 of 2022, dated 28.04.2023 and quash the same.

For Appellants :Mr.C.Samivel

ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)



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Heard Mr.C.Samivel, learned counsel appearing for the petitioner.

2. The challenge in this Writ Petition is to an order passed by the Administrative Tribunal in setting aside the order of the petitioner, dated 04.06.2021 and directing the petitioner to record the name of the second wife of the first respondent in the pension book.

3. The learned counsel appearing for the petitioner would submit that Rule 54 of the CCS (Pension) Rules 1972 had mandated that the second wife would not be entitled to get family pension as that of a legally wedded wife. He would further submit that the first respondent had only produced a divorce deed which is not a valid document in the eye of law. He would further submit that as per the provisions of the Hindu Marriage Act, any second marriage by an Hindu after the commencement of the said Act, during the lifetime of the first wife would be a nullity. In such circumstances, he would submit that the request of the first respondent had been rightly rejected by the petitioner, but however, the Tribunal by relying upon a judgment of the High Court,



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where reliance has been placed on Rule 54(7) of the CCS Pension Rules had directed the Union of India to disburse the pensionary benefits to both widows and the said judgment cannot be made applicable in the present case for the simple reason that the first respondent is still alive and therefore, there is no question of applying of Rule 54(7) of the CCS Pension Rules to the case on hand.

4.We have heard the submissions made by the learned counsel appearing for the petitioner and perused the materials placed on record.

5.From the facts on record, it could be seen that the first respondent had divorced his first wife in the year 1977 and the same had been recorded by a divorce deed. Thereafter, he had married one Sagunthala in the year 1979 and this had happened 45 years ago. It is not the case of the petitioner that the first wife of the first respondent had made any claim from the Department, nor it is the case of the petitioner that the said wife had made any claim even against the first respondent.



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6.If that being the position, it could only be safely conclude that the first wife of the first respondent had acquiesced herself of the factual position and had not made any claim against her husband.

7.In such circumstances, it could be safely held that the first respondent's marriage with his second wife which had taken place in the year 1979, not questioned by the first wife even as of today would be a valid marriage.

8.In such circumstances, even though, we have come to a conclusion that the claim of the first respondent is a valid claim, but however, for a different reason that had been assigned by the Tribunal, we find no merits in the Writ Petition to interfere with the order passed by the Tribunal.

9.In fine, the Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.



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(R.S.K.,J.)

(K.B., J.)

27.02.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
pbn

To

The Registrar,
Central Administrative Tribunal,
Chennai Bench,
Chennai – 600 104.



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R.SURESH KUMAR., J.
and
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