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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-14298-2015

Date of decision: 16.09.2024

SURINDER KAUR @ NAVNEET KAUR

....PETITIONER

Vs.

THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL LUDHIANA &
ANR

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Puneet Jindal, Senior Advocate with
Mr. Arshnoor Singh, Advocate
for the petitioner.

Mr. Ashwani Prashar, Advocate
for respondent No. 2.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Award dated 20.03.2015 (Annexure P-3) whereby Labour Court has answered the reference against the work lady.

2. The petitioner solemnized marriage with Surinder Singh according to Sikh rites and ceremonies. On account of matrimonial discord, the petitioner preferred petition under Section 13 of Hindu Marriage Act before District Judge, Ludhiana seeking divorce from her husband namely Surinder Singh.

3. Learned Additional District Judge, Ludhiana vide judgment dated 30.05.1994 (Annexure P-4) ordered to dissolve the marriage. The couple was blessed with two children i.e. one son and one daughter. Son died on 02.07.1994. On account of demise of the son, the couple re-united and started residing together.

The petitioner is claiming that formal marriage was not solemnized, however, in the



Gurudwara and in the presence of relatives, they re-united. From the loin of Surinder Singh, another son was born on 08.09.1995. Surinder Singh was working with Ludhiana Central Cooperative Bank Limited, Ludhiana and he passed away on 29.05.1998. The petitioner applied for compassionate appointment and she was appointed as peon with respondent-bank. She served for 11 years and thereafter at the behest of her son-in-law, an FIR No. 69 dated 15.07.2007 under Sections 420, 467, 468 and 471 IPC at police Station Dakha, Ludhiana came to be registered against her. On the complaint of her son-in-law, the bank conducted an inquiry and terminated her. Against the order of termination, she preferred an application before Labour Authorities and matter came to be referred to Labour Court. The petitioner came to be acquitted vide judgment dated 09.08.2012 (Annexure P-8) passed by Judicial Magistrate Ist Class, Ludhiana. The Labour Court, despite her acquittal, dismissed her reference on the ground that she had solemnized marriage with the same person, after decree of divorce, thus, she was not entitled to compassionate appointment as well as consequential benefits.

4. Mr. Ashwani Prashar, Advocate submits that documents submitted by petitioner i.e. birth certificate of second son, matriculation certificate, record of hospital, affidavit filed by petitioner are disclosing that there are two ladies i.e. Surinder Kaur and Navneet Kaur. It cannot be culled out from the documents whether petitioner was having two names i.e. Surinder Kaur as well as Navneet Kaur, thus, it cannot be concluded that petitioner-Surinder Kaur had re-united with her divorced husband and child was born from their wedlock. The Labour Court has rightly dismissed claim of the petitioner.

5. Mr. Puneet Jindal, Senior Advocate submits that decree of divorce was passed on 30.05.1994 and in the said decree, it is categorically noted that petitioner is known by two names i.e. Navneet Kaur as well as Surinder Kaur. There are a few documents where name of petitioner is recorded as Surinder Kaur and in a few



documents it is recorded as Navneet Kaur. The decree of divorce was passed much prior to appointment of petitioner, thus, decree of divorce cannot be ignored.

6. I have heard counsel for the parties and with their able assistance perused the record.

7. From the perusal of impugned order passed by Labour Court, it is evident that Labour Court has dismissed claim of the petitioner on the ground that there is decree of divorce between the couple, thus, there is no question of existence of marriage between the parties. The alleged re-marriage between the parties cannot be recognized. The re-union does not mean that petitioner became wife of Surinder Singh. The only option with petitioner was to get the decree of divorce set-aside. The decree of divorce was never set-aside, thus, re-union of petitioner with Surinder Singh cannot be treated as valid marriage between the parties. The findings recorded by Labour Court are reproduced as below:-

“Decree of divorce always means the parting of ways of the husband and wife and it also means that they are at liberty to remarry anybody they like. Re-marry here does not mean the same husband or the same wife. It always means that except the former husband and wife, they can remarry anybody of their choice. If the divorced husband and wife are interested in living together as husband and wife, the only course with them to get the decree set aside with consent or with any approved legal method. In this case, the workwoman admits that she never got the decree in question, set aside which means that she has not been the legally wedded wife after the decree divorce dated 30-05-1994. During the existence of the decree of divorce, there is no other legal way for the former husband and wife to continue live as legally wedded husband and wife.”

8. The primary stand of the respondents is that Surinder Kaur and Navneet Kaur are two different ladies, thus, petitioner cannot be extended benefit accruing in favour of widow of Surinder Singh. The petitioner cannot be treated as



widow of Surinder Singh and she is not mother of second child which was born from the loin of Surinder Singh.

9. From the perusal of decree of divorce, it is evident beyond the pale of doubt that petitioner is known as Navneet Kaur as well as Surinder Kaur. The said document is a judicial verdict and cannot be ignored. The different documents placed on record by parties are disclosing that in a few documents, name of petitioner is disclosed as Navneet Kaur and in a few documents Surinder Kaur. No lady with the name of Navneet Kaur has ever surfaced or claimed that she is widow of Surinder Singh or mother of second son of Surinder Singh. The decree of divorce is disclosing that petitioner is known as Navneet Kaur as well as Surinder Kaur. Thus, stand of respondents is not sustainable. It is petitioner who is Surinder Kaur as well as Navneet Kaur. There are no two different ladies rather one lady i.e. the petitioner is having two names i.e. Navneet Kaur and Surinder Kaur and it is not a strange or unknown phenomenon in Indian culture. There are many ladies who are known by a name different from the name prior to their marriage. The petitioner has been acquitted by Trial Court and judgment of acquittal has attained finality because neither State nor complainant had challenged judgment of acquittal.

The findings recorded by Labour Court that petitioner could not solemnize marriage with her previous husband, is not sustainable and it cannot be a ground to deny compassionate appointment or terminate an employee who was appointed on the ground of death of her husband. Besides, it was not subject matter of Labour Court to decide legality of marriage of the petitioner. Once it is undisputed that they were co-habiting and a son was born from their wedlock, the Labour Court was not supposed to record findings *qua* legality of marriage of the petitioner.



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10. In the wake of above discussions and findings, the present petition deserves to be allowed and accordingly allowed.
11. The impugned Award dated 20.03.2015 (Annexure P-3) is hereby set-aside. The petitioner as claimed by both sides has already attained age of superannuation, thus, respondent-bank shall reconsider her claim afresh. The needful shall be done within 3 months from today.

16.09.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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