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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-1553-2026 (O&M)
Date of Decision: 27th May, 2026.

PRIYA **…....*Appellant(s)***

V/s

UNION OF INDIA AND ANOTHER **......*Respondent(s)***

CORAM: ***HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA***
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present Mr. Kulwant Singh Boparai, Advocate,
for the appellant.

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ASHWANI KUMAR MISHRA, J. (Oral)

1. The claim of the appellant for family pension has been rejected by the learned Single Bench after noticing the facts of the case according to which the appellant's marriage with a public servant was a second marriage during the subsistence of the first marriage. The Rules have been examined by the learned Single Bench to come to the conclusion that such second marriage does not create any right in favour of the appellant to claim family pension.

2. After the death of Major Hari Singh, one Civil Suit was filed by the first wife-Mohinder Kaur, seeking declaration regarding her title to receive retirement benefits of her husband, which was decreed in her favour, however, the appellate court held the appellant herein to be the legally wedded wife based on proof of marriage and Will. Thereafter, this Court, in RSA No. 1006 of 2002, reversed this finding and restored the trial court judgment declaring Mohinder Kaur as the lawful wife. The appellant's challenge before the Hon'ble Supreme Court was also dismissed on 04.12.2006.

3. Learned counsel for the appellant vehemently argues that even though the appellant may not be a legally wedded wife, yet, she has to be treated as a co-widow under the Rule 54 (7) of the Central Civil Services (Pension) Rules, 1972 (hereinafter referred to as "the Rules") on account of which she would be entitled for the family pension.

4. Rules 54(7) of the Rules reads as follows:-

(7) (a) (i) *Where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal shares.*

(ii) *On the death of a widow, her share of the family pension shall become payable to her eligible child :*

Provided that if the widow is not survived by any child, her share of the family pension shall not lapse but shall be payable to the other widows in equal shares, or if there is only one such other widow, in full, to her.

(b) *Where the deceased Government servant or pensioner is survived by a widow but has left behind eligible child or children from another wife who is not alive, the eligible child or children shall be entitled to the share of family pension which the mother would have received if she had been alive at the time of the death of the Government servant or pensioner.*

Provided that on the share or shares of family pension payable to such a child or children or to a widow or widows ceasing to be payable, such share or shares shall not lapse, but shall be payable to the other widow or widows and/or to other child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow or child.

(c) *Where the deceased Government servant or pensioner is survived by a widow but has left behind eligible child or children from a divorced wife or wives the eligible child or children shall be entitled to the share of family pension which the mother would have received at the time of the* *death of the Government servant or pensioner had she not been so divorced.*

Provided that on the share or shares of family pension payable to such a child or children or to a widow or widows ceasing to be payable, such share or shares, shall not lapse, but shall be payable to the other widow or widows and/or to the other child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow or child.

(d) *Where the family pension is payable to twin children it shall be paid to such children in equal shares :*

Provided that when one such child ceases to be eligible his/her share shall revert to the other child and when both of them cease to be eligible the family pension shall be payable to the next eligible single child/twin children."

5. Since the provisions of Central Civil Services Rules specifically bars solemnization of second marriage during the subsistence of first marriage, as such the alleged marriage claimed by the appellant would at best be a void transaction and would not confer any right in the appellant to claim family pension from the State.

6. In order to claim the benefit of family pension, the applicant will have to demonstrate that she would be covered within a definition of 'widow'. The 'widow' in ordinary parlance would mean the 'wife' of deceased person/employee. The status of 'wife' can be claimed only if there is a valid marriage solemnized. In the facts of the present case, the Rules do not contemplate any second marriage during the lifetime of the living spouse and therefore, the claim of second marriage during the subsistence of first marriage, would not enure the status of 'wife' to the appellant so as to claim family pension from the State. The position may be somewhat distinct in the matter relating to the claim of maintenance against the husband by the lady who contracts second marriage, however, such considerations would not arise where the right is asserted against the State in the context of family pension.

7. In view of the position explained hereinabove, the present Appeal fails and is ***dismissed***, accordingly.

8. Pending application(s), if any, in this case are dismissed of accordingly.

[ASHWANI KUMAR Mib SHRA]
JUDGE

[ROHIT KAPOOR]
JUDGE

May 27, 2026
Ess Kay

Whether speaking / reasoned : Yes / No
Whether Reportable : Yes / No