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

CWP-35239-2025 (O&M)

Date of decision: 18.02.2026

Rajni Bala

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tushar Wadhwa, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

Mr. Akash Vashisth, Advocate
for respondents No.2 & 3.

HARPREET SINGH BRAR, J. (ORAL)

1. Present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* seeking quashing of the order dated 09.12.2015 (Annexure P-10) and the order dated 27.05.2019 (Annexure P-11) passed by respondent No.3 and further to issue a writ in the nature of *mandamus* directing the respondents to release the pensionary and other benefits of late husband of the petitioner, namely Raj



Kumar, w.e.f. the date of his death i.e. 11.06.2014 along with interest @24% *per annum*. It is also prayed to direct the respondents to consider claim of the petitioner for compassionate appointment against the appropriate post.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is the legally wedded wife of late Sh. Raj Kumar, who was serving in the respondent-Corporation, as marriage between them was solemnized on 01.02.2009 and they continued to live together till the death of her husband. The marital status was acknowledged by the deceased employee during his lifetime and was affirmed by an order dated 05.03.2010 (Annexure P-2) passed by learned Additional Civil Judge (Sr. Divn.), Phagwara. Further, the deceased employee executed an affidavit dated Nil (Annexure P-3) nominating the petitioner as the sole beneficiary of all his service benefits and upon his death, the petitioner applied for release of family pension, Death-cum-retirement Gratuity, GPF, leave encashment, ex-gratia and other service benefits. Respondent No.4-sister of the deceased employee also submitted a representation dated 23.10.2015 claiming the benefits for herself in order to deprive the petitioner of her legal rights. Despite the evidence regarding marital status of the petitioner and her husband-deceased employee, claim of the petitioner was rejected vide impugned order dated 09.12.2015 (Annexure P-10) on the ground that she was already married and not obtained a decree of divorce from her first husband. Thereafter, the petitioner filed a writ petition i.e. CWP-953-2016 before this Court and during pendency of the same, the respondent-



Corporation passed another impugned order dated 27.05.2019 (Annexure P-11), reiterating the earlier rejection and initiating steps to release benefits in favour of respondent No.4, who is neither Class I heir nor a valid nominee of the deceased employee. However, the said writ petition was dismissed as withdrawn on 28.05.2019 with liberty to challenge the orders dated 09.12.2015 and 27.05.2019 (Annexures P-10 & P-11 respectively)

3. Learned counsel for the petitioner relies upon a judgment of this Court passed in **CWP-19578-2023** titled as **Kirandeep Kaur and others Vs. Punjab State Power Corporation Limited and others**, decided on 29.05.2025 and submits that the respondent-Corporation cannot question the validity of marriage between the petitioner and her husband-deceased employee, once it has been accepted by the employee and is supported by the documentary evidence.

4. *Per contra*, learned State counsel as well as learned counsel for respondents No.2 & 3 oppose the prayer made by the petitioner on the ground that claim of the petitioner was rightly rejected by the respondent-Corporation vide impugned orders dated 09.12.2015 & 27.05.2019 (Annexures P-10 & P-11) passed by respondent No.3 on the ground of failure to produce the decree of divorce from her first husband, namely Jatinder Kalra. The petitioner also approached learned Civil Court, Phagwara by filing a Civil Suit for declaration to the effect that she is legally wedded wife of late Raj Kumar, as their marriage was solemnized on 01.02.2009 and further a suit for permanent injunction restraining him to contract second marriage during subsistence of their marriage.



The said suit was dismissed as withdrawn vide order dated 05.03.2010 (Annexure P-2). As such, some disputed questions of facts are involved, which cannot be decided by this Court, while exercising the writ jurisdiction under Article 226 of the Constitution of India. Learned State counsel relies upon the judgment of Orissa High Court in *Kankalata Dwibedi Vs. State of Odisha and others*, *Law Finder Doc Id #2838788* and a judgment of Rajasthan High Court in *Smt. Anand Kanwar Vs. State of Rajasthan and others*, *2025 NCRJ-JD 46547*.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that claim of the petitioner regarding family pension and other service benefits was rejected vide impugned order dated 09.12.2015 (Annexure P-10) and thereafter, she approached this Court by way of filing CWP-953-2016 and during pendency of the said petition, another order was passed on 27.05.2019 (Annexure P-11) reiterating the grounds taken in the earlier rejection order (Annexure P-10). As such, the petitioner withdrew the aforesaid writ petition on 28.05.2019, however, liberty was granted to challenge the orders dated 09.12.2015 & 27.05.2019 (Annexures P-10 & P-11 respectively). Moreover, the petitioner preferred to file a civil suit for declaration to the effect that she is legally wedded wife of late Raj Kumar, as marriage between them being solemnized on 01.02.2009 and further a suit for permanent injunction restraining him to contract second marriage during subsistence of their marriage. The said suit was

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also dismissed as withdrawn vide order dated 05.03.2010 (Annexure P-2). As such, the present petition not only suffers from delay and laches, but also the question of validity of petitioner's marriage with deceased employee cannot be determined by this Court.

6. It is settled law that where disputed questions of facts are involved, a petition under Article 226 of the Constitution of India is not the proper remedy. A two-Judge Bench of the Hon'ble Supreme Court in ***S.P.S. Rathore Vs. State of Haryana, (2005) 10 SCC 1***, speaking through Justice Y.K. Sabharwal, has held as follows:

"16. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das [(1999) 7 SCC 298] the question which arose for consideration was, can the High Court under Article 226 of the Constitution award compensation for death caused due to electrocution on account of negligence, when the liability was emphatically denied on the ground that the death had not occurred as a result of negligence, but because of an act of God or of acts of some other persons. The Court held that it is the settled legal position that where disputed questions of facts are involved, a petition under Article 226 of the Constitution is not a proper remedy. Therefore, questions as to whether death occurred due to negligence or due to act of God or of some third person could not be decided properly on the basis of affidavits only, but should be decided by the civil court after appreciating the evidence adduced by the parties. In T.N. Electricity Board v. Sumathi [(2000) 4 SCC 543] it was held that when a disputed question of fact arises and there is clear denial of any tortious liability, remedy under Article 226 of the Constitution may not be proper. The Court carved out exception to this general rule by observing that, it should not be understood that in every case of tortious liability, recourse must be had to a suit. When there is negligence on the face of it and

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infringement of Article 21 is there, it cannot be said that there will be any bar to proceed under Article 226 of the Constitution."

7. Further, a two-Judge Bench of the Hon'ble Apex Court in ***Orissa Agro Industries Corporation Ltd. Vs. Bharati Industries, 2005 (12) 725***, while speaking through Justice Arijit Pasayat, observed that as follows:

*"9. A bare perusal of the High Court's judgment shows that there was clear non-application of mind. On one hand the High Court observed that the disputed questions cannot be gone into a writ petition. It was also noticed that essence of dispute was breach of contract. After coming to the above conclusions the High Court should have dismissed the writ petition. Surprisingly, the High Court proceeded to examine the case solely on the writ petitioner's assertion and on a very curious reasoning that though the appellant-Corporation claimed that the value of articles lifted was nearly rupees 14.90 lakhs no details were specifically given. From the counter-affidavit filed before the High Court it is crystal clear that relevant details disputing claim of the writ petitioner were given. Value of articles lifted by the writ petitioner is a disputed factual question. **Where a complicated question of fact is involved and the matter requires thorough proof on factual aspects, the High Court should not entertain the writ petition. Whether or not the High Court should exercise jurisdiction under Article 226 of the Constitution would largely depend upon the nature of dispute and if the dispute cannot be resolved without going into the factual controversy, the High Court should not entertain the writ petition.** As noted above, the writ petition was primarily founded on allegation of breach of contract. Question whether the action of the opposite party in the writ petition amounted to breach of contractual obligation ultimately depends on facts and would require material evidence to be scrutinised and in such a case writ jurisdiction should not be exercised. (See : State of Bihar v. Jain Plastic & Chemicals Ltd., 2002(1) SCC 216).*

10. In a catena of cases, this Court has held that where dispute revolves round questions of fact, the matter ought not be entertained under Article 226 of the Constitution. (See : Chairman, Grid Corporation of Orissa Ltd. (GRIDCO) and Ors. v. Sukamani Das (Smt.) and Anr., 1999(4) RCR (Civil) 174 (SC) : (1999(7) SCC 298).)"

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8. Furthermore, a two-Judge Bench of the Hon'ble Supreme Court in ***Chairman, Grid Corporation of Orissa Ltd. (Gridco) Vs. Smt. Sukamani Das, 1999 (7) SCC 298***, while speaking through Justice G.T Nanavati, made the following observations:

*“6. In our opinion, the High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants, that "admittedly/prima facie amounted to negligence on the part of the appellants". The High Court failed to appreciate that all these cases were actions in tort and negligence was required to be established firstly by the claimants. Mere fact that the wire of the electric transmission line belonging to the appellant No. 1 had snapped and the deceased had come into contact with it and had died was not by itself sufficient for awarding compensation. It also required to be examined whether the wire had snapped as a result of any negligence of the appellants and under which circumstances the deceased had come into contact with the wire. In view of the specific defences raised by the appellants in each of these cases they deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had not died in the manner stated by the petitioners. These questions could not have been decided properly on the basis of affidavits only. **It is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy.** The High Court has not and could not have held that the disputes in these cases were raised for the sake of raising them and that there was no substance therein. The High Court should have directed the writ petitioners to approach the Civil Court as it was done in OJC No. 5229 of 1995.*

9. Reliance in this regard may be placed on the judgments rendered by the Hon'ble Apex Court in ***Shubhas Jain Vs. Rajeshwari Shivam, 2021 SCC***



Online SC 562 and Union of India Vs. Puna Hinda, (2021) 10 SCC 690 and of this Court in Sanchalakshri Vs. Vijayakumar Raghuvirprasad Mehta and another, 1999(1) SCT 88 (SC).

10. It is trite law that a writ petition under Article 226 of the Constitution of India is not an appropriate remedy for resolving the disputed questions of fact. In such cases, the High Court cannot transform itself into a Court of first instance to re-appreciate the evidence or decide intricate factual disputes.

11. Keeping in view the facts and circumstances of the case and the ratio of law laid down in the cases referred to above, present petition is dismissed with no order as to costs.

12. The pending miscellaneous application(s), if any, shall stand disposed of.

**[HARPREET SINGH BRAR]
JUDGE**

18.02.2026

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No