



\$~1 (02.03.2026)

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 10765/2018, CM APPL. 42471/2019**

**NIRMALA @ BHARPAI** .....Petitioner

Through: **Mr. Pardeep Kumar, Advocate.**

**Versus**

**GOVERNMENT OF NCT OF DELHI & ANR** .....Respondents

Through: **Mrs. Avnish Ahlawat, SC for  
GNCTD Services with Mr. N.K.  
Singh, Ms. Aliza Alam and Mr.  
Mohnish Sehrawat, Advocates.**

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

% **28.03.2026**

*[As per to Notification No. 64/G-4/Genl.-I/DHC dated 27<sup>th</sup> February, 2026, matters listed on 2<sup>nd</sup> March, 2026 (on account of "Holi"), are to be taken up on 28<sup>th</sup> March, 2026.]*

1. This writ petition arises out of a claim for grant of family pension in respect of late Shri Guru Dutt Sharma and constitutes a second round of litigation between the parties. The dispute essentially relates to the question as to who was the legally wedded spouse of the deceased employee, basis which the Petitioner (Nirmala @ Bharpai) seeks entitlement to the family pension. The matter, therefore, turns on the determination of her marital status, which is sought to be established on the basis of documents on record.

2. Few foundational facts are not in dispute. Shri Guru Dutt Sharma



served as a Trained Graduate Teacher in Respondent No. 2 school. He retired from service on 30<sup>th</sup> November, 1989 and died on 10<sup>th</sup> November, 2014. Kanta Devi, whose name stands reflected in the pension records as his wife, had predeceased him on 24<sup>th</sup> February, 2003. Nirmala has since passed away. The present petition is now being pursued by Mr. Ashok Kumar Sharma, stated to be the son of late Shri Guru Dutt Sharma through Kanta Devi, who seeks to continue the proceedings as a legal representative of Nirmala on the basis of a Will stated to have been executed in his favour.

3. Nirmala's case was that she was the first and only legally wedded wife of late Shri Guru Dutt Sharma, having married him on 12<sup>th</sup> December, 1946 according to Hindu rites. According to her, no child was born from that marriage and, for that reason, Shri Guru Dutt Sharma later entered into a second marriage with Kanta Devi without obtaining any decree of divorce. On that footing, it was asserted that the marriage with Kanta Devi was void in law and that Nirmala alone was entitled to family pension.

4. This Court, in the earlier round, in W.P.(C) No. 3411/2016, did not finally determine that claim. It permitted the Petitioner (Nirmala @ Bharpai) to place additional documents before the authorities and directed reconsideration. Pursuant thereto, the Deputy Director of Education passed the order dated 31<sup>st</sup> August, 2018, which is under challenge in the present proceedings.

5. The impugned order proceeds on the basis that, at the time of retirement, late Shri Guru Dutt Sharma had furnished his family particulars showing Kanta Devi as his legally wedded wife, which was also reflected in the Pension Payment Order. It further notes that the official service records did not record the name of Nirmala as the wife of late Shri Guru Dutt



Sharma. The authority also relied on the absence of any claim during the lifetime of the employee, the lack of any material evidencing divorce, and the inconsistency in the Petitioner's case regarding the date of marriage. It concludes that the claim is not supported by the official record and is, therefore, not maintainable.

6. Mr. Ashok Kumar Sharma, however, places reliance on a different set of documents. These include a certificate said to have been issued by the Gram Panchayat, Village Purkhas Rathi, District Sonapat, stating that Guru Dutt Sharma had first married Nirmala and had later, without divorce, contracted a second marriage with Kanta Devi.

7. Reliance is also placed on certain communications of 1966 and 1967, including a letter said to have been addressed by the school management to the Education Officer seeking permission for a second marriage during the subsistence of the first, the reply thereto, and the school's subsequent communication forwarding the required documents for granting the permission. On the strength of these purported communications, it is contended that the school and the authorities were aware of Nirmala's status and Kanta Devi was being treated as the second wife.

8. Mr. Ashok Kumar further relies on a record in which the name of Kanta Devi is said to have been struck off and the name of Nirmala entered instead, to show that the service or pension record had, at some stage, reflected Nirmala as the spouse. The relevant entry reads as follows:



Heirs:

1. *Smt. Kanta Devi*

2. [Redacted]

3. [Redacted]

Verification Roll No. \_\_\_\_\_ Dated \_\_\_\_\_ Received \_\_\_\_\_

Left Thumb Impression: [Redacted]

| Qualifications           | Date               | Questions                         | T |
|--------------------------|--------------------|-----------------------------------|---|
| English on <i>Matric</i> | <i>passed 1947</i> | Drill instructing                 |   |
| Bengali on <i>Prep.</i>  | <i>passed 1950</i> | Court duties                      |   |
| Kaithi on <i>P.A.</i>    | <i>" 1953</i>      | Reserve duties                    |   |
| Urdu on <i>B.E.D.T</i>   | <i>" 1957</i>      | First Arts                        |   |
| Urdu on _____            |                    | B.L. or B.A.                      |   |
| Plan-drawing             |                    | Pledership examination            |   |
| Finger Print             |                    | Training School final examination |   |

N. B. :—A line to be drawn under the qualification possessed.

9. The Respondents, consistent with the reasoning in the impugned order, rely on the official service and pension records to contend that, at the time of retirement, late Shri Guru Dutt Sharma had declared Kanta Devi as his legally wedded wife, which stood reflected in the Pension Payment Order as well as the family and nomination records. Nirmala's name does not find mention in the official record, that no documentary proof of marriage has been produced, and that the material relied upon by the petitioner does not displace the recorded particulars.

10. The Court has considered the aforementioned submissions. Family pension does not depend merely on nomination, nor can an entry in the service record or Pension Payment Order, by itself, conclude the issue of who the



legally wedded spouse was. A nomination may be relevant for limited service purposes, but it does not override legal status under the pension rules.<sup>1</sup> Equally, where the employee was governed by Hindu law, a second marriage during the subsistence of the first marriage would ordinarily be void, and a second wife would not acquire entitlement to family pension merely because her name stood entered in official records. To that extent, the impugned order states the matter too broadly when it suggests that no other claim could be considered once Kanta Devi had been shown in the pension papers.

11. But that is only one side of the matter. While nomination or pension records are not conclusive, the burden still remains on Mr. Ashok Kumar to establish, on reliable material, that Nirmala was indeed the first legally wedded wife and that the later marriage with Kanta Devi was void. It is here that the record becomes grossly uncertain.

12. First, the dates themselves are not free from confusion. The Petitioner's case is that her marriage with late Shri Guru Dutt Sharma took place in December 1946. The impugned order, however, records her date of marriage on 13<sup>th</sup> March, 1968, which appears to be the date otherwise associated with the alleged second marriage. Whether this is merely an error in the order or reflects inconsistency in the underlying material is itself unclear. Second, the authenticity and legal weight of the old letters of 1966 and 1967 are disputed by the Respondents. Third, even if those documents are taken at face value, they do not, by themselves, prove every element required to grant the relief sought. They may indicate that the school management and the Education Officer were told that a second marriage was

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<sup>1</sup> *G.L. Bhatia v. UOI & Anr.* (1999) 5 SCC 237.



proposed because the first wife had no issue. But they do not, without more, conclusively identify the spouse or establish the date of the first marriage, the actual solemnisation of the second marriage, the subsistence of the first marriage on that date, the absence of divorce in fact or in law, or the legal consequences that are now sought to be drawn from them.

13. It must also be remembered that no state authority could have conferred legal validity upon a second marriage that was otherwise void in law. Therefore, even if the correspondence is genuine, any such tacit or purported “permission” could have no legal sanctity. At the highest, those documents are pieces of surrounding evidence. They may support the Petitioner’s narrative to some extent. They do not conclude it.

14. The service record, including the family declaration and pension papers in which Kanta Devi was shown as wife, also cannot be treated insignificant. They are official records emanating from the deceased employee’s own service record. The Petitioner has pointed to an entry in the service record indicating that the name of ‘Smt. Nirmala Devi’ was struck off and substituted with that of ‘Smt. Kanta Devi’. This circumstance does raise a question as to whether the record underwent alteration at some stage and what was the basis thereof. However, the nature, timing, and authority for such alteration are themselves matters of dispute and there are no underlying supporting documents.

15. There is another difficulty. No contemporaneous proceedings appear to have been taken during the lifetime of late Shri Guru Dutt Sharma for correction of service records, declaration of marital status, or challenge to the continued reflection of Kanta Devi’s name in the pension papers. That circumstance is not conclusive against Nirmala, especially having regard to



her age and stated illiteracy. But it does add to the uncertainty of the record and reinforces the need for a forum that can test the competing versions through evidence.

16. It is true that the mere existence of disputed facts does not, by itself, bar writ jurisdiction. The writ court may, in an appropriate case, decide disputed questions of fact. But that principle does not mean that every dispute of this kind should be tried on affidavits. Where the *lis* turns on old and contested documents, family history, marital status, and the need to test the authenticity and probative value of rival records, the writ court would be appropriate to undertake a final adjudication. Such issues ordinarily require oral evidence, production of original records or secondary evidence, and such further proof as the parties may be able to lead.

17. In the present case, that is precisely the problem. Nirmala's documents are not so clear and unimpeachable that the Court can, in writ jurisdiction, declare her to have been the first legally wedded wife and, on that basis alone, direct release of family pension. Nor are the Respondents justified in treating the service records and nomination as foreclosing the enquiry altogether. The controversy lies in a narrow but difficult space between those two positions. It is a controversy that calls for adjudication in a properly constituted civil proceeding, not for resolution on affidavit evidence in a writ petition.

18. For that reason, this Court is not inclined to determine the marital status of Nirmala or Kanta Devi, or of the consequent entitlement to family pension. The impugned order may stand as an administrative rejection for the present, but it cannot be treated as a conclusive adjudication of status binding on a competent civil court. If Mr. Ashok Sharma establishes, in



appropriate proceedings, that Nirmala was the legally wedded wife of late Shri Guru Dutt Sharma and that the rival claim founded on Kanta Devi had no legal basis, the pensionary consequences would necessarily have to be reconsidered in accordance with law.

19. Accordingly, while declining to grant relief in the present writ petition, this Court leaves it open to Mr. Ashok Kumar to seek appropriate remedies in accordance with law for establishing the rights, if any, claimed through Nirmala. In the event any such rights are established in appropriate proceedings, it shall be open to Mr. Ashok Kumar to place the same before the Respondents for consideration of consequential benefits, if any, in accordance with law, without treating the impugned order as foreclosing the matter.

20. Before parting, the Court considers it necessary to note one further aspect. Family pension is a personal statutory benefit payable to the eligible family member in her own right. It does not ordinarily form part of the estate of the deceased employee and is not heritable in the ordinary sense. The Supreme Court has explained that family pension is a welfare entitlement governed by the relevant rules, and not property of the deceased capable of devolving as part of their estate.<sup>2</sup> Therefore, if Nirmala had died before her status as the legally entitled widow stood recognised, Mr. Ashok Kumar could not step in and claim continuing family pension in her place merely by describing himself as her legal representative. Such a claim would ordinarily not survive in that form.

21. However, a distinction must be drawn between a claim for continuing family pension and a claim for arrears, if any, that may have accrued to



Nirmala during her lifetime, assuming she were ultimately held to be the legally entitled widow. While a claim for continuing family pension would not survive in favour of Mr. Ashok Kumar, the question of arrears stands on a different footing. Even so, he does not automatically become entitled to claim such arrears as the legal representative of Nirmala. Though he asserts such status on the basis of a Will stated to have been executed in his favour, he would be required to establish, in accordance with law, his entitlement to represent the estate. He would have to establish before the competent forum not only that Nirmala was the legally wedded wife entitled to family pension, but also that he is competent in law to represent or succeed to her estate.

22. All rights and contentions of the parties regarding the question of succession to the estate of Nirmala, as well as the merits of the marital-status dispute, are left open.

23. The writ petition is disposed of in the above terms. Pending applications, if any, also stand disposed of.

**SANJEEV NARULA, J**

**MARCH 28, 2026/nk**

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<sup>2</sup> *Jodh Singh v. UOI & Anr.* (1980) 4 SCC 306.