

(2018) 08 CHH CK 0164

Chhattisgarh High Court

Case No: WA No. 90 Of 2018

Radha Devi

APPELLANT

Vs

Chief General Manager, South
Eastern Coalfields Limited And
Ors

RESPONDENT

Date of Decision: Aug. 13, 2018

Hon'ble Judges: Ajay Kumar Tripathi, CJ; Prashant Kumar Mishra, J

Bench: Division Bench

Advocate: Chandresh Shrivastava, Goutam Khetrapal

Final Decision: Dismissed

Judgement

Ajay Kumar Tripathi, CJ

1. This is an application for condonation of delay in filing the appeal. The appeal is barred by 9 days.

2. For the reasons mentioned in the application, the same is allowed and the delay in filing the appeal is condoned.

3. Heard learned counsel for the parties on merits.

4. The appellant admittedly is the second wife of the erstwhile employee namely; Jay Narayan Maharaj. She prayed for grant of family pension from

the respondent authorities since the husband retired from service after attaining the age of superannuation on 3-8-1983. The death of the husband

happened on 19-1-2001 and the dispute arose because the first wife was very much alive when the present appellant married the employee.

5. The learned Single Judge has made detailed consideration of the various judgments specially rendered by the Hon'ble Supreme Court in relation to

the status and right of a second wife to beget and demand family pension. He came to the considered opinion that keeping in mind the law including

the Conduct Rules relating to such employees, which has been extensively quoted, the sum essence of the findings given by the learned Single Judge is

that the second wife who had entered into matrimony during the life time of first wife cannot demand or beget family pension since such marriage is

void-ab-initio in terms of the Hindu Marriage Act, 1955.

6. The learned Single Judge has also explained as to what nomination in favour of such wife amount to and such nomination does not include payment

of family pension.

7. Since the law is consistent on this point the dismissal of the writ petition by the learned Single Judge, refusing to give any direction in favour of the

appellant for grant of family pension cannot be said to be erroneous in any manner.

8. Since no other judgment contrary to the principles laid down in the series of the decisions taken note of in the impugned order has been brought to

the notice of this Court, we are not inclined to interfere with the impugned order dated 6-11-2017 passed by the learned Single Judge in WPS No.5071

of 2012.

9. In the result, the writ appeal, sans merit is liable to be and is hereby dismissed.