

(2011) 02 KL CK 0138

High Court Of Kerala

Case No: WA No. 179 of 2011

Smt. Treasa

APPELLANT

Vs

The Executive Engineer and Smt.
MaryRESPONDENT

Date of Decision: Feb. 23, 2011**Hon'ble Judges:** Jasti Chelameswar, C.J; Antony Dominic, J**Bench:** Division Bench**Advocate:** Asp. Kurup, for the Appellant; No appearance, for the Respondent**Final Decision:** Dismissed

Judgement

@JUDGMENTTAG-ORDER

Antony Dominic, J.

The Appellant claims to be the legally wedded wife of one Sebastian who was an employee of the Kerala State Electricity Board. On the death of Sri. Sebastian, family pension was paid to the second Respondent treating her as the legally welded wife of the deceased. Coming to know of the same, the Appellant raised a claim for family pension. That was considered by the first Respondent and her claim was rejected by Ext.P3 order. Challenging Ext.P3 order and seeking orders for payment of family pension to her, the Appellant filed W.P.(C) No. 36000 of 2010 which was dismissed by the learned Single Judge by judgment dated 2nd December, 2010. It is challenging the said judgment the writ appeal has been filed.

2. We heard learned Counsel for the Appellant who contended that before the first Respondent nobody disputed the status of the Appellant as the legally wedded wife of the deceased and therefore, her claim for family pension ought to have been recognised and payments made to her.

3. However, from the impugned order Ext.P3, it is noticed that after the Appellant deserted the deceased, the second Respondent married and lived with the deceased for more than 32 years. The first Respondent has also made reference to various

documents to justify his conclusion that the second Respondent was the wife of the deceased.

4. Proceeding further, in view of the fact that the Appellant had relied on Ext.P1 certificate to contend that she is the legally wedded wife of the deceased, the learned Judge has rightly held that the question of marriage is a disputed fact and that the claim of the Appellant that she is the legally wedded wife of the deceased, is to be established by her in suit before an appropriate civil court.

5. We do not find anything illegal in the judgment warranting interference in this writ appeal.

6. Writ appeal is accordingly dismissed.