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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5402 of 2016****Order reserved on 08.01.2018****Order delivered on 25.01.2018**

Smt. Annapurna Jatvar, aged about 32 years, W/o. Late Indu Prakash Jatvar, R/o. Plot No. 74/8, Panchkuti, Maitrikunj Risali, Bhilai, District Durg (Chhattisgarh).

---Petitioner**Versus**

1. State of Chhattisgarh, through its Secretary, Panchayat and Rural Development Department, Mantralaya, Naya Raipur, District Raipur.
2. Chief Executive Officer, Jila Panchayat, Rajnandgaon.
3. Chief Executive Officer, Janpad Panchayat, Mohala, District Rajnandgaon.
4. The Collector, Rajnandgaon (Chhattisgarh).

---Respondents

For petitioner : Mr. Parag Kotecha, Advocate.

For respondents/State : Mr. Sangharsh Pandey, Dy. Govt. Advocate.

Amicus Curiae : Mr. Amrito Das, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order [C.A.V.]

1. The short question that emanates for consideration is whether an divorced wife after death of her former husband is entitled to claim compassionate appointment claiming to be dependent of deceased government servant?

2. The essential facts requisite to answer the above-stated question are as under:-

2.1 The petitioner's marriage was solemnized with Shri Indra Prakash Jatvar, Assistant Engineer, employed in the Office of respondent No.3 herein. The marriage of petitioner with Shri Jatvar stood dissolved by decree of divorce granted by jurisdictional matrimonial court on 06.12.2016 annulling the marriage at the instance of the petitioner. Shortly thereafter, unfortunately Shri Jatvar died in harness on 28.06.2016. The petitioner made an application for grant of compassionate appointment with Chief Executive Officer, Janpad Panchayat, Mohala, Rajnandgaon alleging that she was getting monthly maintenance of ₹ 4,500/- duly granted by the Family Court to maintain herself and her minor son and being dependent, such an appointment be granted to her.

2.2 The competent authority directed the petitioner to produce succession certificate for considering her case for compassionate appointment, leading to filing of this writ petition stating *inter alia* that she being dependent on her former husband (deceased Government Servant) and getting monthly maintenance who died in harness, is entitled for compassionate appointment.

2.3 Return has been filed by the respondents opposing the writ petition stating *inter alia* that the petitioner's marriage with deceased government servant having been dissolved prior to death of Shri Jatvar and she has no status of "widow" of deceased government servant. Therefore, she is not entitled to

be considered for compassionate appointment.

2.4 Shri Parag Kotecha, learned counsel appearing for the writ petitioner, would submit that the petitioner being dependent getting monthly maintenance and surviving thereby is entitled to be considered for compassionate appointment despite the fact that she has divorced her husband before his death as object of granting compassionate appointment is to provide solace to the bereaved family whose bread earner and winner has suffered untimely death. Therefore, the petitioner is entitled to be considered for compassionate appointment.

2.5 Shri Sangharsh Pandey, learned Deputy Government Advocate appearing for the State, would support the impugned order.

2.6 Mr. Amrito Das, learned amicus would submit once marriage is dissolved, marital status comes to an end and after decree of divorce, if husband dies, the divorced wife status would not have the status of "widow", therefore, as per policy of the State Government, only "widow" is entitled to be considered for compassionate appointment and divorced wife cannot be said to be widow for the purpose of compassionate appointment. He would further submit the petitioner having ceased to a member of deceased government servant's family has rightly not been considered for grant of compassionate appointment.

2.7 The policy for compassionate appointment applicable to such

appointment has been issued by the State of Chhattisgarh on 14.06.2013. Clause-5 of the said policy states about the eligible candidate which reads as under:-

“5. अनुकम्पा नियुक्ति हेतु पात्र उम्मीदवार.— दिवंगत शासकीय सेवक के आश्रित परिवार के निम्नलिखित वयस्क सदस्यों में से किसी एक सदस्य को नीचे दर्शित क्रमानुसार अर्थात् (क) के अस्वीकार करने पर या पात्र न होने पर (ख) को एवं उसके पश्चात् इसी क्रम में आगे (ग), (घ) एवं (ङ.) की अनुकम्पा नियुक्ति हेतु क्रमशः विचार किया जायेगा:—

- (क) दिवंगत शासकीय सेवक की विधवा/विधुर,
- (ख) पुत्र/दत्तक पुत्र,
- (ग) अविवाहित पुत्री/ अविवाहित दत्तक पुत्री,
- (घ) आश्रित विधवा पुत्री/आश्रित दत्तक विधवा पुत्री एवं
- (ङ.) आश्रित तलाकशुदा पुत्री/आश्रित तलाकशुदा दत्तक पुत्री। ”

2.8 The question would be whether a divorced wife can be said to be widow, if husband (government servant) dies after the decree for dissolution for marriage is passed for the purpose of clause-5 of the said policy for compassionate appointment.

2.9 “Widow” of deceased government servant has not been defined in the policy of compassionate appointment of the State government. In common parlance, “widow” means a woman who has lost her spouse or partner by death and usually has not remarried. A man is husband of a woman only as long as there is no snapping of matrimonial relations by divorce a vinculo or dissolution of marriage or death.

2.10 According to Concise Law Dictionary P. Ramanatha Aiyar, 4th Edition – “widow” means a woman whose husband is dead and who has not married again.

2.11 Black’s Law Dictionary, Sixth Edition defines the word

“widow” means:-

“widow – A woman whose husband is dead and who has not remarried.”

2.12 According to Stroud’s Judicial Dictionary (Fifth Edition)

“widow” means a widow is woman who has survived a man to whom she has obtained a declaration of nullity of marriage is not his widow.

WIDOW. (1) A widow is a woman who has survived a man to whom she was lawfully married, and who was his wife at the time of his death.

(2) A woman surviving a man with whom she has gone through the ceremony of marriage, but with regard to whom she had obtained a declaration of nullity of marriage, is not his “widow”¹. So, a wife divorced who survives her husband, is not his “widow”, within the Statute of Distribution; *secus*, if only judicially separated².

2.13 In 'Words and Phrases' Permanent Edition, Vol.45 Page

41, under the heading 'divorced wife', the word “widow” means a woman who has lost her husband by death and has no application to a divorced woman. Where husband and wife are divorced a vinculo, the wife after the husband's death is not his widow and entitled to daver.

2.14 In the matter of Smt.Sushila Devi Somani Vs. Kedarnath

Gupt³, the Madhya Pradesh High Court considered the

1 *Re Boddington* 22 Ch. D. 597; 25 *ibid.* 685

2 *Rolfe v. Perry* 32 L.J. Ch. 149

3 AIR 1987 MP 65

meaning of word “widow” in reference to Section 23-A and Section 23-J of the MP Accommodation Control Act and it has been held that present meaning of term “widow” is familiar, well fixed, certain and definite and it is defined, both popularly and legally, to mean a woman, who has lost her husband by death, and has not taken another, by surviving lawful wife of a decedent, a wife who outlives her husband, one whose husband is dead, a surviving life and it has been said that in legal writings, “widow “ is an addition given to a woman who is unmarried and whose husband is dead.

2.15 The said judgment has been followed by the Madhya Pradesh in the matter of Rambai Vs. Ramesh Kumar⁴.

2.16 In the matter of Ramkali Vs. Mahila Shyamwati & other⁵, it has been held by the Madhya Pradesh High Court that “widow” means and implies “female” who was united in marriage recognized by law and who survives husband without remarriage. This also means that if a wife remarriages during lifetime of her husband, she cannot be treated as widow of earlier husband on his death.

2.17 In Re Norman’s Will Trusts 84 S.J. 186 it has been held that a woman who had divorced her husband was held not to have qualified on his death for an interest given to her on her becoming a widow.

4 AIR 1996 MP 144
5 AIR 2000 MP 288

2.18 Kay J., Re Morrieson, Hitchins v. Morrieson 40 Ch. D. 30,
rejecting Re Bullmore 22 Ch. D. 619 held that a divorced
 wife is not a “wife” within a general bequest or limitation.

2.19 From the aforesaid dictionary meaning of “widow” as well as
 the English decisions highlighting the word “widow”, it is *quite*
vivid that a woman whose marriage has been annulled by
 decree of divorce granted by jurisdictional matrimonial court
 cannot be called as widow after the death of former husband.
 As ordinarily understood, divorce is nothing more nor less than
 another name for dissolution of marriage. (See for support
Mst. Zohara Khatoon v. Mohd. Ibrahim⁶)

2.20 In the matter of Ruma Chakraborty v. Sudha Rani Banerjee
and another⁷ Their Lordships of the Supreme Court have held
 that divorce is termination of matrimonial relationship and
 brings to an end status of wife as such.

3. Reverting to the facts of the present case, it is *quite pellucid* that
 the matrimonial relationship between the petitioner and her
 deceased husband had already come to an end upon grant of
 decree of divorce by the matrimonial court on 06.12.2016 and she
 had ceased to be the wife of the deceased government servant on
 that day and lost her status of wife of the deceased government
 servant and upon his death, she is no longer widow of the deceased
 government servant, therefore, she is not “widow” within the

⁶ (1981) 2 SCC 509

⁷ (2005) 8 SCC 140

meaning of clause-5 of instructions of the State government, which entitles the widow of the deceased government servant for consideration for grant of compassionate appointment and therefore, the petitioner is not entitled for compassionate appointment.

4. The matter can be considered from one more angle. The object of granting compassionate appointment is to enable family of the deceased government servant to get over sudden financial crisis and to extend financial support. It is intended to be a beneficial measure and not a means of employment to the members of bereaved family. The petitioner has ceased to be the family member of the deceased government servant as soon as marriage is dissolved by decree of divorce. Thus, she is no longer member of the family of the deceased government servant and therefore also, she cannot claim the privilege of compassionate appointment which is to be extended to the members of the deceased government servant as a measure to come out from the financial crisis particularly in view of fact that provision for compassionate appointment is an exception to the constitutional provision for appointment to public posts and therefore, the provision for compassionate appointment is to given a strict interpretation. The Supreme Court in the matter of **General Manager, Uttranchal Jal Sansthan v. Laxmi Devi and others**⁸ has held in no uncertain terms that rules relating to the compassionate appointment, which

8 (2009) 7 SCC 205

permits side door entry have to be given strict interpretation.

5. This leaves me to consider the next contention of learned counsel for the petitioner that since the petitioner was getting monthly maintenance to the tune of ₹ 4,500/-, therefore, she is entitled for compassionate appointment. The right of divorced wife is cribbed, confined and cabined by the provisions of the Hindu Marriage Act, 1956 only to the extent of the rights available under Section 25 (Permanent alimony and maintenance) and Section 27 (Disposal of property), and the decree for divorce shall therefore crystalize the right of divorced wife (See B. P. Achala Anand v. S. Appi Reddy and another⁹ paragraph-29). Even otherwise, the petitioner was not dependent on the deceased, but was only entitled to a monthly maintenance of ₹ 4,500/- only.

6. On the aforesaid analysis, it is held that the petitioner not being the widow of the deceased government servant within the meaning of clause-5 of policy of the State Government for compassionate appointment is not entitled for such an appointment as the petitioner (divorced wife) is neither a widow nor a dependent of deceased government servant and it has rightly been declined by the respondent/State.

7. As a fallout and consequence of the aforesaid discussion, the writ petition deserves to to and is accordingly dismissed leaving to bear their on cost(s). However, this court appreciates the valuable assistance rendered by Mr. Amrito Das, learned amicus who on

short notice prepared and submitted a written note which assisted this court.

Sd/-

(Sanjay K. Agrawal)
Judge



HIGH COURT OF CHHATTISGARH AT BILASPUR

(SB: Hon'ble Shri Justice Sanjay K. Agrawal)

Writ Petition (S) No.5402 of 2016

Petitioner

Smt.Annapurna Jatvar

Versus

Respondents

State of Chhattisgarh and others

(Head-note)

(English)

Divorced wife of Government servant is not entitled for compassionate appointment of her former husband (Government servant).

(हिन्दी)

सरकारी सेवक की तलाकशुदा पत्नी अपने पूर्व पति (सरकारी सेवक) की मृत्यु होने पर अनुकंपा नियुक्ति की पात्र नहीं है।

