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CENTRAL ADMINISTRATIVE TRIBUNAL ALIAHABAD BENCH.

O.A.No.377 of 1987.

Smt. Deva Bai Applicant.

Versus

Divisional Mechanical Engineer &
another Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, A.M.

(BY Hon'ble Mr. Justice U.C. Srivastava, VC)

Applicant Deva Bai claims herself to be the widow of Har Govind. Admittedly, said Deva Bai got compassionate appointment after the death of said Har Govind who died on 26.9.78. It appears that some complaint was made and thereafter an enquiry took place. The Enquiry Officer found that the applicant was not the widow of said Har Govind and she by impersonating herself as Deva Bai, widow of said Har Govind committed fraud and got compassionate appointment. Consequently the Disciplinary Authority cancelled the said appointment and imposed the penalty of removal. The applicant filed an appeal against the same which was dismissed. Thereafter, the applicant filed this application.

2. According to the applicant herself, the following are the admitted facts;

That Har Govind and Gokul were the two brothers and the applicant's name was Laxmi and she was the wife of Gokul while the name of Har Govind's wife was Deva Bai who had two children. According to her, during the

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life time of Har Govind, said Deva Bai became mentally deranged and lunatic and as such according to the custom of the community to which she belongs i.e. Kanchhi, the marriage was solemnized through Bachhia and this Bachhia ceremony took place before the Panches of the community and this is how she became the wife of said Har Govind through Bachhia. She was also nick-named as Deva Bai and was also popularly known as Deva Bai as such and that is why after the death of Deva Bai, she applied for compassionate appointment.

3. The applicant has challenged the enquiry on variety of grounds. proceedings. According to her, Gokul has pre-deceased the said Har Govind and no reasonable opportunity to defend herself was given to her and the entire enquiry proceedings are vitiated. We have gone through the enquiry proceedings and also the applications moved by the applicant to the effect that she would give her statement only after all the witnesses are examined. She gave her statement which is Annexure A-5. In her statement before the Enquiry Officer, she has stated that the name of her husband is Gokul who died eight years ago on 29.8.84. Har Govind was her sister's husband and she was residing as his wife and at that time his wife was also alive. Her real name was Laxmi. The first wife of Har Govind, according to her, was her maternal uncle's daughter and she was the wife of her husband's elder brother. She also stated that Deva Bai died some five years ago and so long Deva Bai was alive,

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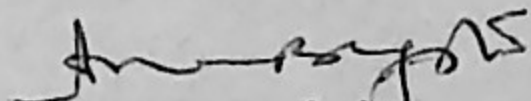
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she was getting pension and after her death her two children, son and daughter were getting pension. Although she has got three children but none of them is from Har Govind ^{but} ~~or~~ from ² her husband Gokul. She also stated that Gokul started calling her Deva Bai, that is why she gave her name as Deva Bai while applying for service on compassionate ground. It is thus clear from the facts stated above that said Har Govind died when ~~his~~ wife was alive and she was getting pension. In her statement, she did not state that she was lunatic or mentally deranged and she was turned out of the house. If this would have been the position, the pension could not have been given to her. Even something is wrong regarding her mental condition. Unless a divorce did not take place, she continued to be his wife. It is not the case of the applicant that a customary divorce took place and under the Hindu Law, so long first wife of a person is alive, the second marriage took place, the marriage will be void and the marriage being void, the second wife cannot claim any right and benefit of a wife of a person whose first wife is alive. As such even if the plea of the claim is accepted, she was not legally wedded wife of Har Govind and she could not have claim any right of service or any other right being wife of Har Govind as the wife of Har Govind was alive. As the applicant's so-called marriage in customary form itself is

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void marriage, she cannot claim any right and she has rightly been removed from the service as she fraudulently obtained the service by posing herself as Deva Bai, wife of Har Gondil. In these circumstances, it is not necessary to enter into the ground which has been taken by the applicant for assailing the enquiry proceedings. A person who seeks equity must be granted equity but this principle does not apply to this case and the applicant is not entitled for any equity. Accordingly, this application deserves to be dismissed and is hereby dismissed without any order as to the costs.


MEMBER (A)


VICE CHAIRMAN.

DATED : MAY 7, 1992
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