

IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No. 414 of 2026

Martha Murmu, wife of Late Barnawas Maltu, aged about 39 years,
resident of Village- Borio Santhali, P.O. & P.S.- Borio, District-
Sahebgunj. Appellant

Versus

1. The State of Jharkhand.
2. The Deputy Commissioner-cum- President, District Compassionate Committee, Sahebgunj at Collectorate building, Sahebganj, P.O and P.S Sahebgunj, District Sahebgunj.
3. District Panchayat Raj Officer, Sahebganj P.O and P.S Sahebgunj, District Sahebgunj.
4. Block Development Officer, Borio Sahebgunj, P.O P.S. District Sahebganj. Respondents

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellant : Ms Kanchan Lata, Advocate
For the Resp-State : Md Zaid Imam, AC to SC-VII

03 /Dated: 01.09.2026

1. Heard Ms Kanchan Lata, learned counsel for the appellant and Md Zaid Imam, learned AC to SC-VII, for the respondents.
2. This appeal challenges the learned Single Judge's order dated 02.07.2026 dismissing the appellant's W.P.(S) No. 3994 of 2026 seeking compassionate appointment.
3. Ms Kanchan Lata submitted that the learned Single Judge has ignored the proviso to Rule 23(1) of the Bihar Government Servant's Conduct Rules, 1976 (said Rules) as applicable in the State of Jharkhand. She submitted that the learned Single Judge also ignored the fact that the appellant and her late husband were members of the Santhali Tribe and, according to the customary law applicable to them, a second marriage was permissible. She submitted that in the earlier round of litigation, the Division Bench of this Court had ordered apportionment of certain pensionary and gratuity benefits between the first wife and the appellant's minor son. She contends that from this, it was evident that the legality of

the marriage between the deceased employee and the appellant was accepted by this Court.

4. Ms Kanchan Lata submitted that the appellant's financial position is quite dire. She submitted that though the son has been given benefits, the same are only on paper and actual financial benefits have not yet reached the son.

5. Ms Kanchan Lata relied on the decision of the Hon'ble Supreme Court in *Rameshwari Devi Vs. State of Bihar and others* (2000) 2 SCC 431 to support her contentions.

6. Ms Kanchan Lata submitted that for all the above reasons, the impugned order may be interfered with and a suitable direction be issued to the respondents for granting compassionate appointment to the appellant.

7. Md Zaid Imam, learned counsel for the respondents, defended the impugned order on the basis of the reasoning reflected therein. He submitted that proviso to Rule 23(1) of the said Rules requires specific permission before any second marriage is contracted. He submitted that no such permission was granted in the present case. He relied on the decision of *Ghulam Nabi Shergujri Vs. The United of India & Anr.*, 2016 SCC OnLine Tripura 259 to support his contentions that such a permission was mandatory.

8. Mr Zaid Imam, therefore, submitted that this appeal may be dismissed.

9. The rival contentions now fall for our determination.

10. In this case, Late Barnawas Maltu, who was working as Panchayat Sewak, died in harness on 11.07.2011. The appellant claims to be the second wife of Barnawas Maltu.

11. The respondents rejected her application for compassionate appointment and retiral benefits for herself and her son. Therefore, she instituted a petition before this Court. The first wife, Sarojani Kisku, also instituted a petition claiming similar benefits. Both these petitions were disposed of by order dated 13.09.2017.

12. Then Sarojini Kisku, the first wife, filed L.P.A. No. 613 of 2017. In this appeal, the present appellant was impleaded as 6th respondent. The appellate Court disposed of the appeal by judgment and order dated 28.02.2019 by *inter alia* modifying the learned Single Judge's order and holding that the first wife and the minor son of the second wife, i.e. the appellant herein, were entitled to the distribution of the gratuity amongst themselves. However, no such relief was granted to the present appellant, though directions were issued to reconsider the case of both wives for compassionate appointment. Upon reconsideration, the present appellant's case for compassionate appointment was denied.

13. The present appellant, therefore, instituted W.P.(S) No. 3994 of 2026 to challenge the decision dated 28.07.2021 by which she was denied compassionate appointment. The learned Single Judge, by the impugned order dated 02.07.2026, has dismissed the said W.P.(S) No. 3994 of 2024 and, hence, this appeal.

14. Rule 23 of the Bihar Government Servant's Conduct Rules, 1976, which is stated to be applicable to the State of Jharkhand, reads as follows:

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“23. Restrictions regarding marriages. – (1) No Government servant shall enter into, or contract, a marriage with a person having a spouse living; and

(2) No Government servant, having a spouse living shall enter into, or contract a marriage with any person :

Provided that Government may permit a Government servant to enter into or contract, any such marriage as is referred to in clause (1) or clause (2) if it is satisfied that :-

(a) such marriage is permissible under the personal law applicable to such Government servant and the other party to the marriage; and

(b) there are other grounds for so doing.

(3) A Government servant who has married or marries a person other than of Indian Nationality shall forthwith intimate the fact to the Government.”

15. In this case, no permission is produced on record to indicate that Barnawas Maltu, while in service, obtained any permission to enter into the contract of second marriage with the appellant. The learned Single Judge has correctly held that in the absence of any such permission, the present appellant cannot insist upon compassionate appointment based upon her second marriage while the marriage between Barnawas Maltu and his first wife was subsisting. The view taken by the learned Single Judge is quite consistent with the provisions of Rule 23 quoted above and also with the decision in ***Sanjeev Kumar Yadav Vs State of Bihar, 2002***

(2) PLJR 253.

16. The argument about the customs of the Santhali Tribe is also not directly relevant in this matter because there is nothing on record to show that the marriage with the appellant was contracted after obtaining permission under the proviso to Rule 23 (2) of the Conduct Rules. Such permission is necessary even to a case where the second marriage is permissible under the personal law applicable to such Government servant and the other party to the marriage.

17. The decision in *Rameshwari Devi* (*supra*) cannot assist the appellant herein. There, the issue was whether the children of the second marriage contracted by the deceased employee during the subsistence of the first wife would be entitled to family pension and other retiral benefits. In that context, the Hon'ble Supreme Court, after considering the provisions of the Hindu Marriage Act, which applied in the facts of the said case, held that though the marriage itself was void, the children of such a void marriage could never be regarded as illegitimate. Accordingly, the finding of the High Court holding the minor children of the second marriage entitled to certain retiral benefits was not interfered with.

18. In this context, the Hon'ble Supreme Court considered the Conduct Rules, which were similar to the Conduct Rules quoted above, and held that if the second marriage violated the Conduct Rules, disciplinary action could have been taken against the employee while in service. However, the claim of the minor children of such a marriage, who are held to be legitimate under the Hindu Marriage Act, 1956, for certain retiral benefits could not be denied. The Court also noted that the case before it was not a sham marriage because it was amply established by oral and documentary evidence.

19. In the present case, the appellant's minor son has been given certain benefits. In the case before the Hon'ble Supreme Court, it was held that the wife was not entitled to any benefits; the position of minor children was different, given the provisions in the Hindu Marriage Act, 1956, which was found applicable to the facts of the said case. Therefore, based upon *Rameshwari Devi* (*Supra*), no relief can be granted to the appellant herein.

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20. Similarly, based upon Ms Kanchan Lata's submissions that the appellant's financial situation is dire, we cannot direct compassionate appointment.

21. We detect no error in the view taken by the learned Single Judge.

22. For all the above reasons, we find no good grounds to interfere with the impugned order and consequently, dismiss this appeal without any order for costs.

(M.S. Sonak, C.J.)

(Rajesh Shankar, J.)

September 01, 2026
Ranjeet / R.Kr.
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