

(*Pb. & Hry.*), (5), that the petitioners cannot possibly claim any prior hearing before the change of list P. 2:

“It was nowhere laid down that no matter whether there was infringement of an enforceable legal right or not, whenever there was reduction in rank or loss of seniority, emoluments or the like resulting even from the exercise of the lawful authority, the effected Government servant always got under the rules of natural justice, a right to be afforded an opportunity to be heard before an order relating to any such matter was passed.”

And again:

“Where an order was passed by the Government which was palpably an erroneous administrative decision which affected several senior officers, there was no rule of law which debarred a Government, while acting administratively, from remedying the wrong done by itself.

Every Administrative Authority has an inherent right to rectify its own mistakes unless there is some specific provision of law which prohibits such a course. An officer holding an officiating post has no vested right to be heard or to urge that since he had obtained some benefit under a wrong decision made by a departmental authority, that decision be not rectified as it would result in the loss of that benefit to him.”

(6) In the light of the above discussion, we find no merit in any of these petitions and thus dismiss the same but with no order as to costs.

S. S. Sandhawalia, C.J.—I agree.

N.K.S.

Before J. V. Gupta, J.
MADAN LAL,—Petitioner.

versus

SANTOSH KUMARI and another,—Respondents.

Civil Misc. No. 5034/CII of 1982.

in Civil Revision No. 2821 of 1982.

January 18, 1983.

Hindu Marriage Act (XXV of 1955)—Section 24—Code of Civil Procedure (V of 1908)—Section 115—Wife granted maintenance and litigation

(5) 1971(2) S.L.R. 561.

Madan Lal v. Santosh Kumari and another (J. V. Gupta, J.)

expenses under section 24 by the trial Court—Husband filing a revision petition in the High Court—Wife claiming litigation expenses for proceedings in the High Court—Revision petition—Whether could be said to be a proceeding under the Hindu Marriage Act—Wife—Whether entitled to have litigation expenses in the High Court.

Held, that a revision petition against the order of the trial Court passed under section 24 of the Hindu Marriage Act, 1955 granting maintenance and litigation expenses to the wife will be deemed to be a proceeding under this Act. It is true that an appeal is a continuation of the original proceeding and the fact that an appeal lies under the Code of Civil Procedure against an order in a proceeding under the Act, will not make the appeal any-the-less a proceeding under the Act for, the appeal also relates to the adjudication in respect of the rights conferred under the Act. Similarly a revision petition also relates to the adjudication in respect of the rights conferred under the Act and in that view of the matter, the revision petition cannot be said to be an independent proceeding in that sense for which the wife is not entitled to the litigation expenses. For all intents and purposes, it will be deemed to be a proceeding under the Act as it arises out of adjudication of the proceedings under the Act and will affect the maintenance itself. (Para 2).

Application under Section 24 of the Hindu Marriage Act, read with Section 151 of the Civil Procedure Code praying that Madan Lal petitioner be directed to pay Rs. 1,600 to the respondent-applicant as litigation expenses in this Hon'ble High Court.

Ujagar Singh, Advocate, for the Appellant.

Karminder Singh, Advocate, for the Respondent.

JUDGMENT

J. V. Gupta, J.

(1) In this miscellaneous application the meaningful question raised on behalf of the petitioner (husband) is that the wife-respondent is, not entitled to any litigation expenses under section 24 of the Hindu Marriage Act because the proceeding in the revision petition arising out of an order under section 24 of the trial Court cannot be said to be 'any proceeding under this Act.'

According to the learned counsel, a revision petition is not continuation of the original petition filed in the trial Court under the Hindu Marriage Act, and therefore, the respondent is not entitled to any litigation expenses thereunder. In support of his contention, he referred to *Jalasutram Annapurnamma v. Jalasutram*

Ramkrishna Sastry, (1), *Daya Aggarwal vs. Sohan Lal Aggarwal*, (2) In *Jalaustram Annapurnamma's* case (supra), the case was of an appeal under section 28 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'). In that appeal, an application under section 24 of the Act was made wherein it was considered that whether the appeal could be said to be 'any proceedings under this Act'. Under this circumstance it was held that since the right of appeal is one conferred under the Act, it is 'a proceeding under the Act'. In *Daya Aggarwal's* case (supra), it was held that section 24 can work and is limited and hedged in by the conditions laid down in this section itself and any order under that Section can be made only 'in any proceedings under this Act'. It was further found therein that even though an application under section 476 of the Criminal Procedure Code may be taken as an interlocutory application in proceeding under the Act, it is not by itself a proceeding under the Hindu Marriage Act particularly when the proceedings under that Act had admittedly come to an end before that application was made. Thus both these cases are distinguishable and are not applicable to the facts of the present case. Here the husband Madan Lal has filed a petition for dissolution of marriage by decree of divorce under section 13 of the Act before the Additional District Judge, Ludhiana. In that petition an application under section 24 of the Act was filed on behalf of wife-respondent. The trial Court allowed maintenance pendente-lite at the rate of Rs. 350 per month to the wife and Rs. 150 per month to her minor son. She was further allowed litigation expenses to the extent of Rs. 1,000. Against the said order, the husband has come up in revision in this Court. During the pendency of the revision petition, an application under section 24 of the Act has been moved on behalf of wife-respondent claiming the litigation expenses for defending the revision petition in this court which is being contested on behalf of the husband-petitioner. Thus the sole question to be decided is whether the revision petition filed against the impugned order under section 24 can be said to be "any proceedings under this Act".

(2) After careful consideration I am of the considered opinion that the revision petition against the impugned order which has been passed under section 24 of the Act will be deemed to be a

(1) AIR 1959 Andhra Pradesh 49.

(2) 1976 All India Hindu Law Reporter 371.

Rajinder Kumar v. The State of Punjab and others (S. S. Sandhawalia, C.J).

proceeding under this Act. "It may be that the appeal is a continuation of the original proceedings as such, but at the same time, the revision-petition has been filed against an order under section 24 of the Act which was passed in the proceedings under this Act. In this view of the matter, it could not be successfully urged that the respondent is not entitled to the litigation expenses of this revision petition because this by itself is not 'a proceeding under the Act'. Even in *Jalasutram Annapurnamma's* case (supra) it has been held "it is a common case that an appeal is a continuation of the original proceeding. The fact that an appeal lies under the Civil Procedure Code against an order in a proceeding under the Act, will not make the appeal any-the-less a proceeding under the Act, for, the appeal also relates to the adjudication in respect of the rights conferred under the Act." On the same analogy the revision petition also relates to the adjudication in respect of the rights conferred under the Act. In that view of the matter, the revision petition cannot be said to be an independent proceeding in that sense for which the respondent is not entitled to the litigation expenses. For all intents and purposes, it will be deemed to be a proceeding under the Act as it arises out of adjudication of the proceedings under the Act, and will affect the maintenance itself.

(3) In this view of the matter, preliminary objection raised on behalf of the petitioner fails and the application is allowed and the respondent is held to be entitled to the litigation expenses of this revision petition which are assessed at Rs. 500.

N. K. S.

Before S. S. Sandhawalia, C.J. & S. S. Sodhi, J.

RAJINDER KUMAR,—Petitioner.

versus

THE STATE OF PUNJAB and others,—Respondents.

Civil Writ Petition No. 610 of 1973.

January 27, 1983.

Constitution of India 1950—Article 226—No rules or regulations providing for grant of grace marks to a failed candidate—Grace marks, however, given to some candidates—Writ of mandamus by a failed candidate claiming grace marks—Whether competent.