

Subject : Sanction of Family Pension to Second Wife of a freedom Fighters clarification furnished by the Law Department-Reg.

The Karnataka State Freedom Fighters Welfare Rules, 1964 (hereinafter called 'rules' for short) make provision for grant of pension to freedom fighters. Rule 3 of the said Rules makes provision for the wife of a deceased freedom fighter to obtain pension under these Rules. Under the rules a wife of a deceased freedom fighter is entitled for a pension and such an eligible wife can make an application under Rule 4 of the said Rules to the competent authority for grant of pension.

The status of a second wife has to be decided in accordance with the date of marriage, which is a crucial aspect, because the marriage which was solemnized prior to 1955 was avoidable marriage considered to be a valid marriage till the same is declared as null and void by a competent court of law having jurisdiction to deal with the matter, at the instance of any one of the spouses living at the time of marriage. In that event, even the second wife of a deceased freedom fighter will be entitled for pension under Rule 3 of the said Rules. In case the marriage is solemnized subsequent to 1955 then such a marriage is a nullity, because no such marriage can take place during the lifetime of the other spouse. In such an event, the second wife of a

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deceased freedom fighter has no legal status in the eye of law and as such will not be entitled for any benefit following from the Rules.

In the light of the facts and circumstances narrated above, and also the position of law, Administrative Department has to scrutinise each and every case and a decision has to be taken depending upon the circumstances of that case. In all those cases wherein marriages have been solemnized prior to 1955 the second wife would be entitled for pension and as such the Deputy Commissioners who are empowered in grant pension in accordance with the order bearing No. DPAR 67 PFS 78 are well within the framework of law to sanction family pension to two wives (till the marriage is declared as a nullity by a competent court of law having jurisdiction to deal with the matter at the instance of any one of the spouses living at the time of first marriage). In case of marriages having come into existence subsequent to 1955, the second marriage would be a nullity and a second wife will not be entitled for any kind of benefit and as such the Deputy Commissioner cannot grant the pension as contemplated under rule to the second wife.

(Opinion of the Law  
Department)

Sd/-

Under Secretary to Government,  
D.P.A.R. (Political Pension)