

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.57 OF 2014

Ketan K. Tirodkar

Petitioner

versus

Union of India through Secretary,
Human Resource Department and others

Respondents

Mr.Ketan Tirodkar, Petitioner in person, present.

Ms.Neeta Masurkar and Mr.PS.Gujar for Respondent no.1.

CORAM : MOHIT S. SHAH, C.J. AND
B.P.COLABAWALLA, J.

DATE : 11 March 2015

PC :

The petitioner, appearing in person, had mentioned this matter on 6 February 2015 for urgent orders. After hearing the petitioner, following order was passed :

" Mentioned. Not on board.

2. Mr.Tirodkar, petitioner in person, seeks to withdraw the PIL. Having regard to the nature of the matter, we are of the view that the grievance sought to be raised by the petitioner in this PIL can be raised by affected parties before appropriate

forum and therefore, this PIL is not to be entertained. Hence, he prays for withdrawal. PIL is permitted to be withdrawn. The PIL is disposed of accordingly."

2. The petitioner has thereafter mentioned this matter and submitted that there was some misunderstanding and he did not want to withdraw the PIL.

3. The PIL refers to All India Services (Death-Cum-Retirement Benefits) Amendment Rules, 2013 and particularly following rule :

"8(c) - Where the deceased member of service or pensioner is survived by a widow but has left behind eligible child or children from a divorced or an illegally wedded wife or wives, the eligible child or children shall be entitled to the share of family pension which the mother would have received at the time of the death of the member of service or pensioner had she not been so divorced or had she been legally wedded :

Provided that on the share or shares of family pension payable to such a child or children or to a widow or widows ceasing to be payable, such share or shares, shall not lapse, but shall be payable to the other widow or widows or to the other child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow or child.

Note : In past cases, no recovery from the previous beneficiary should be made. On receipt of

an application from eligible child or children of the member of service or pensioner born to an ineligible mother, a decision regarding division or otherwise of family pension may be taken by the competent authority after satisfying himself or herself about veracity of facts and entitlement of the applicant."

The petitioner contends that the above rule should not be confined to All India Services but should be extended to all services.

4. The learned special advocate for the Union Government states on the basis of instructions received by her as under :

"6. In so far as pensioners of other Central Government employees are concerned, the rules and regulations/guidelines framed by the Department of Pension & Pensioners' Welfare are applicable to them. The provisions for family pension to the families of the Central Government Pensioners is governed under Rule 54 of Central Civil Service (Pension) Rules, 1972. In regard to family pension to the illegally born children from a void or voidable marriage, an Office Memorandum No.1/16/ 1996-P&PW(E) (Vol.II) dated 27.11.2012 has been issued by the Department of Pension & Pensioners' Welfare in consultation with the Ministry of Law and Justice (Department of Legal Affairs) and Ministry of Finance (Department of Expenditure)."

5. We are of the view that if any person claims that similar benefit should be conferred on that person based on above Office Memorandum, it is open to such a person to make a claim before appropriate forum by instituting appropriate proceedings. Therefore, we do not think it necessary to change the order dated 6 February 2015, wherein we had mentioned as under :

"... .. Having regard to the nature of the matter, we are of the view that the grievance sought to be raised by the petitioner in this PIL can be raised by affected parties before appropriate forum and therefore, this PIL is not to be entertained."

6. However, last three sentences referring to petitioner's prayer to withdraw the PIL and Court granting permission to withdraw, shall stand deleted. With these observations, the PIL is accordingly dismissed.

(CHIEF JUSTICE)

(B.P.COLABAWALLA, J.)

MST