

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2946 OF 2016

Dadarao G. Ingole, died through
L. Rs Smt. Hansa W/o Dadarao Ingole
Age : 60 years, Occu. Household,
R/o : Plot No. 62, near Bhu-vikas
Bank Colony, Anand Nagar, Nanded.

...PETITIONER

versus

- 1) The State of Maharashtra
Through the Principal Secretary
Co-operation and Textile Department,
Mantralaya, Mumbai.
- 2) The State of Maharashtra,
Through its Principal Secretary,
Finance Department, Mantralaya, Mumbai.
- 3) The President,
Maharashtra State co-operative Appellate Court,
Old Sachivalay, Extension Building,
Ground floor, M.G. Road, Mumbai.

...RESPONDENTS

.....
Mr. K. J. Suryawanshi, Advocate for Petitioner
Mr. A. B. Girase, AGP For Respondent 1to 3
.....

**CORAM : R.M. BORDE AND
K.K. SONAWANE, JJ.**

DATED : 27th SEPTEMBER, 2016.

ORAL JUDGMENT : (Per: R.M. Borde, J.)

1. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final decision, at admissions stage.
2. The husband of the petitioner was appointed as Judge of the Co-operative Court on 20-02-1984 and was confirmed in the year 1986. The husband of the petitioner was promoted as Member, Co-

operative Appellate Court on 01-08-2003 and he opted for voluntary retirement in the year 2005. The husband of petitioner died on 22-09-2008. The petitioner claims that her husband was entitled to claim salary benefits as recommended by Shetty Commission with effect from 01-09-1998, however, such monetary benefits were not paid to him during his life time and request of the petitioner for paying such benefits has not been considered. The petitioner claims that she is entitled to claim pensionary benefits taking into consideration the recommendations made by Padamnabham Committee in respect of revision of pay-scale of the Judicial Officers of subordinate judiciary. The petitioner prays for issuance of directions to the respondents to re-fix pension admissible to her in accordance with recommendations made by Padamnabham Committee.

3. Affidavit in-reply has been presented on behalf of the State Government. In paragraph No. 17 of the affidavit, it has been stated that claim of the petitioner's husband for extending benefits as per recommendations of Shetty Commission can be considered w.e.f. 01-09-1998. It is further stated that claim would be examined in consultation with Finance Department and appropriate decision would be taken.

4. So far as extending of benefits as per recommendations of Padmanabham Committee are concerned, it is stated that since husband of the petitioner opted for voluntary retirement prior to

01-01-2006, prior to the date prescribed under the Government Resolutions dated 18-03-2010 and 26-08-2011 for extending benefit as per recommendations of Padmanabham Committee, and as such the husband of the petitioner is not entitled to claim monetary benefits. The view expressed by respondent - State in affidavit-in-reply is not correct and is against policy adopted by the State. In the resolution dated 25-07-2011, the State Government has taken decision to make applicable recommendations of Padamnabham Committee and to extend benefit to the employees, who have retired prior to 01-01-2006. It is recorded in the said Government resolution that appropriate instructions have already been issued to the concerned authority to process the pension proposals and transmit the information to the Office of Accountant General and after receipt of authorization from Accountant General, monetary benefits will have to be disbursed. It is further recorded that in view of the decision taken on 05-01-2011 and 30-08-2011 steps shall have to be taken for refixing pension claims of the retired employees in Sub-ordinate Judiciary, who have retired prior to 01-01-2006 and monetary benefits i.e. pension and applicable allowances shall have to be disbursed.

5. In view of decision taken by the State Government vide resolution dated 25-07-2011, the petitioner is entitled to claim revised pension and also other allowances and benefits in accordance with recommendations of Padmanabham Committee.

Respondents are thus directed to refix the pension of the petitioner's husband by extending benefits as recommended by Padmnabham Committee w.e.f. 01-01-2006 onwards. The respondents also shall fix the salary of deceased husband of the petitioner in accordance with recommendations of the Justice Shetty Commission w.e.f. 01-09-1998 and shall actually pay monetary benefits to the petitioner together with arrears, as expeditiously as possible, preferably within eight months from the date of this order.

6. Writ petition is allowed in above terms. Rule is made absolute accordingly. There shall be no order as to costs.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[R.M. BORDE, J.]

MTK