

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

WRIT PETITION NO. 10165 OF 2015

**AMARSINGH NATTHUSINGH RAJPT
VERSUS
THE UNION OF INDIA AND OTHERS**

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Mr.Paresh B. Patil, Advocate i/b. Mr.Prakashsing
B. Patil, Advocate for petitioner

Mr.M.N.Nawandar, Advocate for respondents

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.**

DATE : AUGUST 05, 2016

PER COURT :

Heard.

2. Rule . Rule made returnable forthwith.

With the consent of the parties, heard finally.

3. It is the case of the petitioner that the petitioner has retired from the service of the Railway Department on attaining the age of superannuation on 30.06.2006. The first wife of the petitioner filed a suit bearing R.C.S. No.32

of 2006 for dissolution of marriage. The said suit was dismissed on 30.06.2007. However, by mutual consent, there was divorce between the petitioner's first wife and the petitioner in H.M.P. No.297 of 2014.

4. The learned Counsel for the petitioner submits that since the marriage of the petitioner with the first wife is already dissolved and the decree of dissolution of the marriage has been passed, the respondents may be directed to nominate the name of the second wife of the petitioner namely, Kalpana for getting family pension thereby by quashing the impugned communication dated 24.08.2015.

5. On the other hand, the learned Counsel for the respondents, relying on the averments made in the affidavit-in-reply, submits that in view of the provisions of the Hindu Marriage Act, since

the said Kalpana is the second wife of the petitioner, she is not entitled for getting the family pension.

6. Upon hearing the learned Counsel for the petitioner and the learned Counsel for the respondents and perusal of the pleadings in the petition, grounds taken therein, annexures thereto and the reply of the respondents, we are of the opinion that that since the marriage of the petitioner with his first wife is dissolved, there cannot be any impediment to enter the name of his second wife – Kalpana in the service record of the petitioner, if not already recorded. The Division Bench of this Court, in unreported judgment in the case of **Mangalbai Nivruttirao Kandangire Vs. The State of Maharashtra and others in Writ Petition No.8101 of 2015 decided on 05.10.2015**, relying on the reported judgment of this Court in the case of **Laxmibai Shripat Kumar Vs. Chief Executive**

officer, Zilla Parishad and ors., 2004(6)Bom.C.R. 744, has taken a view that the name of the second wife of the petitioner can be recorded in the service record for the purpose of getting the family pension.

7. In that view of the matter, the impugned communication is quashed and set aside. In case, the name of the second wife of the petitioner namely, Kalpana is not recorded in the service record of the petitioner, the respondents are directed to record her name in the service record of the petitioner and take further appropriate steps in accordance with law.

8. The Writ Petition stands disposed of in the above terms. Rule made absolutely accordingly.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

kbp