

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

**REVIEW APPLICATION [STAMP] NO.28747 OF 2016
IN
WRIT PETITION NO.10165 OF 2015**

The Union of India,
Through Secretary,
Ministry of Railways,
Rail Bhawan, Raisina Road,
New Delhi 110 001
and others

..Applicants

Vs.

Amarsingh s/o. Natthusingh Rajput,
Age 70 Years, Occ. Retired,
R/o. Plot No.5, Prabhakar, Colony,
Near Ramdeo Baba Temple,
Bhusawal, Dist. Jalgaon

..Respondent

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Mr.M.N.Navandar, Advocate for applicants

Mr.P.B.Patil, Advocate for respondent

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.
DATE : OCTOBER 03, 2016**

PER COURT :

Heard the learned Counsel appearing for
the review applicants (respondents in Writ
Petition). He submits that while deciding the Writ

Petition, this Court has placed reliance on an unreported judgment of the Division Bench of this Court 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** so also a reported judgment in the case of **Laxmibai Shripat Kumar Vs. Chief Executive officer, Zilla Parishad and ors., 2004(6) Bom.C.R.744**. He submits that the facts in the said decisions are totally different from the facts in the present case and therefore, the order under review, needs to be recalled. He further submits that the respondent (petitioner in Writ Petition) remained in bigamy with his second wife for a considerable period since 08.06.1982. He submits that since the respondent/original petitioner performed second marriage during subsistence of his first marriage, in view of the decision of the Hon'ble Supreme Court in the case of **Rameshwari Devi Vs. State of Bihar, 2000 DGLS(SC)190**, the

Writ Petition should have been dismissed by this Court. He submits that the second wife of the respondent/original petitioner is not entitled for any pensionary benefit. The learned Counsel further invites our attention to the provisions of Sections 5 and 16 of the Hindu Marriage Act, the relevant Rules of the Central Government and submits that since the respondent/original petitioner performed second marriage during subsistence of his first marriage, the second wife of the respondent is not entitled to any service benefits including the pensionary benefits.

2. We have considered the submissions advanced by the learned Counsel for the review applicant/original respondents and the learned Counsel for the respondent/original petitioner. With their able assistance, perused the grounds taken in the review application so also the order under review.

3. By the order under review, this Court has allowed the Writ Petition on the ground that the first marriage of the respondent/original petitioner was dissolved on 09.09.2014 and therefore, Kalpana (second wife) is the only wife of the respondent, who is entitled to get the pensionary benefits.

4. The facts in the case of **Rameshwari Devi (supra)** are different inasmuch as during subsistence of the first marriage of the appellant therein, her husband performed second marriage and the benefits were claimed by the second wife subsisting the first marriage. However, in the present case, marriage of the respondent/original petitioner with the first wife was already dissolved. In that view of the matter, we do not see any reason to entertain this Review Application.

5. There is no error apparent on the face of record. Hence, the Review Application stands rejected.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

kbp