

*Nalawade*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8544 OF 2013

Sophia E. Chandekar,  
Age 65 years, Occupation-  
Presently residing at  
C/o. Mrs. Pushpa Daga,  
Behind Church, Bhisegaon,  
Tal. Karjat, District Raigad. ...Petitioner.

vs.

1. State of Maharashtra  
Through Chief Secretary,  
Mantralaya, Mumbai.
2. The Sr. Dy. Director (Admin)  
G.P.O. Mumbai.
3. Union of India  
New Delhi,  
through the Law Ministry,  
2nd floor, Aikar Bhavan,  
New Marine Lines,  
Mumbai 400 020. ...Respondents.

Ms.Priyanka Ghosh for the Petitioner.

Mr. V.N.Sagare, AGP for Respondent No.1.

Mr. T.R. Mishra along with Ashok Varma and Mr. N.R.  
Prajapati for respondent Nos. 2 and 3.

CORAM: ANOOP V. MOHTA AND  
A.S.GADKARI, J.

DATE : 2ND DECEMBER, 2016

ORAL JUDGMENT : (PER ANOOP V. MOHTA, J.)

1. Rule, returnable forthwith.
2. Heard finally.
3. The petitioner has challenged communication dated 3.7.2013 issued by the Department of Posts India through the office of the Director, Mumbai GPO (Sr. Deputy Director, Administration, Mumbai) whereby for grant of family pension to the petitioner who is a divorcee daughter of the Central Government Pensioner it was insisted to submit a copy of the confirmation from the High Court granting a decree of divorce from her husband. The respondent for want of such requirement not processing the petitioner's application and that resulted into unsettlement of her family pension claim.
4. The Full Bench of this Court in Asis Ubaldo Rodrigues (D) by L.R.s vs. Maria Asis Rodrigues and anr. reported in 2006 Bombay 143 (Exhibit-D) after considering the position of Divorce Act and the Family Courts Act (66 of 1984) declared that for dissolution of marriage requirement of confirmation of High Court is not necessary. Insistence therefore, in spite of the position of law, in our view, is uncalled for. There is no question, therefore to delay the petitioner's application for settlement of family pension for want of confirmation of decree of divorce from the High Court. Therefore, taking all all view of the mater we are inclined to allow the petition by

observing that there is no requirement of order of confirmation for divorce decree. In the present facts and circumstances of the case the respondent therefore is under obligation to decide the settlement of the petitioner's family pension claim as early as possible and preferably within eight weeks from today.

5. We are inclined to observe that inspite of the position of law so settled in the year 2006 without referring to and without dealing with other specific provisions, the claim of the petitioner has been delayed though she otherwise is entitled for the same. Therefore, in our view, this is a case where the respondents while granting family pension from the date of the application has caused delay and therefore, liable to pay interest on the due pension amount from the date of this petition.

6. Petition is accordingly allowed. No costs.

(A.S.GADKARI, J.)

(ANOOP V. MOHTA,J.)