

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 593 OF 2014

Smt. Shaheen Tamboli .. Petitioner

Vs.

Union of India and Others .. Respondents

....

Mr. Vinod N. Tayade Advocate for Petitioner

Mr. Ashok Verma Advocate for Respondent Nos. 1 to 4

Mr. P.J. Prasad Rao Advocate for Respondent No.5

....

**CORAM : D.H.WAGHELA CHIEF JUSTICE &
SMT.V.K.TAHILRAMANI, J.**

DATE : FEBRUARY 17, 2016

ORDER [SMT. V.K.TAHILRAMANI, J.] :

1 Heard learned counsel for the petitioner, learned counsel for respondent Nos. 1 to 4 and learned counsel for respondent no.5 Rule. By consent, Rule is made returnable forthwith and petition is taken up for final hearing.

2 This petition is directed against the order dated 3.9.2013 passed by the Central Administrative Tribunal

Bombay Bench at Mumbai in Original Application No. 517 of 2011 whereby the Original Application filed by the present Respondent No.5 came to be allowed.

3 Brief facts of this case, are as under:

Sk. Salim Abdul Karim was working in the Respondent-department i.e. Ammunition Factory Khadki, Pune. Sk. Salim Abdul Karim expired on 28.1.2010 while in service. His death certificate is dated 8.2.2010. The petitioner was the first wife of Sk. Salim and respondent no.5 Afsar is the second wife of Shri. Sk. Salim.

4 Respondent no. 5 Afsar being aggrieved by the fact that Respondent nos. 2 to 4 did not pay the death service retiral benefits of her late husband Shri. Sk. Salim to her, preferred Original Application No. 517 of 2011 before the Central Administrative Tribunal Bench at Mumbai mainly praying for the directions to be issued to the respondent nos. 2 to 4 to grant family Pension Gratuity, General Provident Fund and C.G.I.S. benefits of her late husband to her as valid nomination existed in her favour as per the Rules in force. The

said Original Application came to be allowed, hence, this petition.

5 It is seen that Shri. Sk. Salim gave his nomination for Death-cum-Retirement Gratuity (DCRG) on 14.11.1987 in favour of his first wife i.e. the petitioner. However, thereafter he had given fresh DCRG nomination dated 28.7.2004 in favour of his second wife that is respondent no.5. It is admitted by respondent nos. 2 to 4 that they have received this fresh DCRG nomination in favour of respondent no.5. There is also a nomination filed by deceased Sk. Salim for family pension in favour of respondent no.5 Afsar dated 3.11.2006. In addition there is also a nomination in favor of respondent no.5 Afsar for the purpose of provident fund. These nominations do not mention anything about the present petitioner.

6 It is also an admitted fact that there is document on record dated 28.7.2004 which is an application from deceased Sk. Salim requesting that the name of his ex-wife Shaheen i.e. the present petitioner should be deleted from his service record as he has given her divorce on 15.2.2001. In the said

application, he made a further request to add the name of his present wife Afsar in his service record. Along with this application, Sk. Salim had also annexed Talaqnama with petitioner, Court order of Settlement with petitioner, affidavit of Talaqnama and Nikahnama with respondent no.5 Afsar. Thus, it is seen that there are valid nominations in favour of respondent no.5 Afsar for purpose of family pension, DCRG, Provident Fund and Government Group Insurance.

7 It is seen that approximately six months prior to his death, Sk. Salim had promptly informed his office about his second marriage with respondent no.5 Afsar and about his divorce from the first wife Shaheen i.e. the present petitioner and he filed several nominations in favour of the second wife Afsar.

8 The learned counsel for the petitioner submitted that no valid Talaqnama was given by the deceased Sk. Salim to the petitioner. The petitioner is the first wife of Sk. Salim, hence, she is entitled to the retiral benefits, however, the learned counsel for the petitioner was not able to explain as to how this

claim can be sustained in view of cancellation of nomination of the petitioner filed by the deceased Sk. Salim. It is not possible to ignore the nomination made by the deceased Sk. Salim in favour of respondent no.5. We also have to go by the fact that the first nomination which was in favour of the petitioner was duly canceled and fresh nomination was filled in separately by the deceased Sk. Salim for Death-Cum-Retirement Pension, Provident Fund and Group Insurance benefits in favour of Respondent No. 5. This application for nomination in favour of Respondent No. 5 was filed along with the documents of divorce with the petitioner, Nikahnama with respondent no.5 etc. much prior to the death of Sk. Salim. The Tribunal has considered all the above facts and thereafter allowed the Original Application filed by the respondent no.5. No interference is called for. Rule is discharged.

[SMT. V.K.TAHILRAMANI,J.]

[CHIEF JUSTICE]