IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1057 OF 2007

INDUMATI UTTAM JAGDHANE
VERSUS
DIVISIONAL CONTROLLER MSRTC AURANGABAD AND OTHERS
...
Advocate for Petitioner : Kazi Fatima
Adv for Respondents 1 & 2: Mrs.R.D.Reddy

...
CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL,JJ.

DATE : 16/08/2017

PER COURT :-

The petitioner is the widow of deceased Uttam. Deceased Uttam was in employment of the respondents and on attaining the age of superannuation, retired on 30/09/1992. According to Miss.Kazi, the learned counsel for the petitioner, the husband of the petitioner joined service of respondent in the year 1960 and had completed thirty two years of service on the date of his retirement. As per Rules, the petitioner is entitled for family pension. The husband of the petitioner was a member of E.P.F. i.e. Employees Provident Fund Pension Scheme. The respondents deprived the petitioner of the family pension. The petitioner is in dire need of the amount, however, the claim is not being entertained. Other colleagues of the deceased husband of the petitioner are getting pension, however, the respondents have deprived the same benefit to the petitioner.

2] Mrs.Reddy, learned counsel for the respondents submits that the Pension Scheme of 1995 is applicable to those employees who have retired on and after 01/04/1993. The husband of the petitioner retired prior to the said date and as such, the husband of the petitioner would be governed by the Family Pension Scheme, 1971. The husband of the petitioner has been paid the amount of provident fund by a cheque on 18/10/1994 which has been encashed by the deceased during his life time. The husband of the petitioner died five years after retirement and hence claim of widow and children cannot be considered.

3] We have considered the submissions. It would be clear that the Pension Scheme 1995 can not be applicable to the petitioner as the husband of the petitioner had retired in the year 1992 itself, and the Employees Pension Scheme 1995 would be applicable to those persons who had retired on and after 01/04/1993. Even as per Employees Family Pension Scheme, 1971, a member of the Family Pension Fund is eligible till he attains the age of sixty years or till he retires or quits the service and withdraws or becomes entitled to withdraw the benefits to which he is entitled under the Scheme or dies during the period of reckonable service whichever is the earliest. The husband of the petitioner died after five years of his retirement and after attaining the age of sixty years. The husband of the petitioner was paid an amount of Rs.12,999/- on 18/10/1994, no grievance was made by the husband of the petitioner during his life time. The husband of the petitioner died in year 1997.

4] There is nothing on record to suggest that the petitioner would be entitled for the benefit as claimed. In the light of the above, the relief claimed cannot be granted. Writ Petition as such stands disposed of. No costs.

(MANGESH S. PATIL,J.) **(S.V.GANGAPURWALA,J.)**

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