

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 279 OF 2016

MRS. UJWALA PANDURANG TORASKAR. ... Petitioner
Versus
MORMUGAO PORT TRUST, THR. ITS
CHAIRMAN AND ANR., ... Respondents

Shri Preetam Talaulikar, Advocate for the Petitioner.
Shri Y.V. Nadkarni, Advocate for the Respondents.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 2nd May, 2017

ORAL ORDER :

Heard Shri P. Talaulikar, the learned Counsel appearing for the petitioner and Shri Y.V. Nadkarni, the learned Counsel appearing for the respondents.

2. Shri P. Talaulikar, the learned Counsel appearing for the petitioner has pointed out that the petitioner is a divorced daughter and, as such, is a dependent of the deceased employee of the respondents. The learned Counsel has taken us through para 2 of the Office Memorandum dated 30/08/2004 to point out that the daughter including disabled divorced/widowed daughter who shall, however, not be required to come back to her parental home to get the pension even after attaining the age of 25 years. The learned Counsel further points out that the petitioner is a

divorced daughter of the deceased and, as such, is entitled to pension from the respondents. The learned Counsel has taken us through the communication of the respondents dated 20/11/2015 to point out that the respondents have erroneously discarded the claim for pension put forward by the petitioner.

3. On the other hand Shri Y.N. Nadkarni, the learned Counsel for the respondents pointed out that the deceased expired on 2/04/1987 when the petitioner was not a divorced daughter of the deceased. The learned Counsel further submits that the petitioner was divorced only in the year 2013 and, as such, the question of getting any pension based on such divorce would not arise. The learned Counsel has thereafter taken us through the clarifications Office Memorandum dated 18/04/2016 to point out that the divorced daughter should have the status of the daughter as a divorcee as on the date of the death of the deceased. The learned Counsel, as such, points out that the petition be rejected.

4. We have considered the submissions of the learned Counsel and have also gone through the record. The short point for consideration is whether a divorced daughter who obtained divorce after the death of the deceased is entitled for the pension.

The Office Memorandum produced by the learned Counsel for the respondents dated 18/04/2016 observes at clause 3 thus:

"3. In terms of the above O.M., only those daughters are eligible for family pension who had become widow/divorcee during the life-time of their parents and were dependent on them during such widowhood/divorce. In this case, had the petitioner not married, she could have been said to be dependent on her parents as she was so as an unmarried daughter at the time of their death. After her marriage, she ceased to be a member of the family of her parents and ceased to be dependent on them. Therefore, her family pension was stopped as per rule and was granted to her disabled brother who, as per rule, was eligible for it."

5. Taking note of the said Office Memorandum it clearly shows that the petitioner who obtained divorce only in the year 2013 cannot be said to be dependent and entitled for pension upon the death of her father, who expired in the year 1987. The petitioner admittedly was not a divorced daughter as on the date of the death of her father. Taking note of the said Office Memorandum, we find that there is no case made out for interference in the decision of the respondents. The petition is accordingly rejected.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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