

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6792 OF 2017

(Ku. Vijaya d/o Manohar Ramteke vs. Union of India thr. Secretary, Ministry of Railways & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
OCTOBER 30, 2017.**

Heard Shri N.C. Phadnis with Shri Kunal Nalamwar, learned counsel for the petitioner.

2. The only submission is, the petitioner did not get an opportunity to question constitutionality of the relevant provisions reproduced in para 12 of its judgment by the Central Administrative Tribunal (CAT).

3. A perusal of judgment dated 09.02.2016 delivered by the Central Administrative Tribunal reveals that because of bar noted by it in para 12, as the petitioner had crossed 25 years of her age, she has been found not eligible to claim family pension.

4. It appears that the cause of action for approaching CAT was, rejection of family pension on the ground of absence of relationship with Manohar @ Maniram. This denial contained in impugned order dated 21.06.2010 is found unjustified in para 9 by the CAT. The later reason recorded by the CAT appears to have been used at the eleventh hour. The learned counsel for the petitioner submits that it has been used behind the back of the petitioner, hence the petitioner did not even get an

opportunity to meet it.

5. In this situation, without observing anything on merits of the controversy, we grant the petitioner leave to move appropriate application before the CAT pointing out this error or then filing a fresh OA raising the alleged unconstitutionality.

6. With this liberty, we dispose of the present writ petition. However, there shall be no order as to costs.

JUDGE

JUDGE

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