

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

43 WRIT PETITION NO. 8069 OF 2013

SADANAND ISSAC SATHE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. A.M. Nagarkar
AGP for Respondents 1 & 3 : Mr. Y.G. Gujrathi
Advocate for Respondent 2 : Mr. V.B. Jadhav h/f. Mr. V.D. Hon,
Sr. Counsel

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**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

DATED : March 19, 2018.

ORDER : [PER T.V. NALAWADE, J.]

1. The petition is filed under Articles 226 and 227 of Constitution of India for quashing and setting aside the decision, communication of respondents by which family pension is refused to the petitioner. Both the sides are heard.

2. The submissions made and the record show that the petitioner had married with one Smt. Nalini Taral. In the year 1992 due to the difference of opinion, they executed a document of divorce and started living separate from each other. In 1995 said Nalini died. Nalini was in service in Zilla Parishad, Latur in Primary School. She had two sisters. They collected other

benefits as they were nominated by Nalini. In the year 2004, present petitioner, ex-husband of Nalini filed application for giving him family pension. The matter was processed and the authority declared that petitioner was not entitled to get family pension as he had taken divorce from Nalini.

3. The learned counsel for petitioner drew attention of this Court to Rule 116 (16) (b) (i) and (ii) of Maharashtra Civil Services (Pension) Rule, 1982, which runs as under :-

"(b) "Family", in relation to a Government servant means -

(i) wife in the case of male Government servant, or husband in the case of female Government servant.

(ii) a judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery."

The aforesaid Rule shows that it is necessary that the relationship of husband and wife is in existence for getting the family pension. In the present matter, admittedly, deed of divorce was executed by the present petitioner. The reply affidavit of respondents shows that heirship certificate was

issued in favour of sisters of Nalini by Civil Court. Civil Court considered the divorce document and held that the petitioner had taken divorce from Nalini. In view of these circumstances, the respondents have refused to give benefit of family pension to the petitioner. This Court sees no reason to interfere in the decision of respondents authority as the petitioner has taken divorce he does not fall under the definition of 'family' quoted above. In the result, the petition stands dismissed.

[SUNIL K. KOTWAL, J.]

[T.V. NALAWADE, J.]

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