

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.100 OF 2018.

Virginia Regina De Silva E Lobo ... Petitioner.

Versus

State of Goa, thr. its Chief
Secretary and 3 others. ... Respondents.

Mr. M. Amonkar, Advocate for the Petitioner.

Ms. S. Linhares, Additional Government Advocate for Respondent
nos.1, 2 and 3.

Mr. V. Braganza, Advocate for Respondent no.4.

Mr. R. Menezes, Advocate for Respondent no.5.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 9 July 2018.

P.C.:

Heard learned Counsel for the parties.

2. This petition is filed by the Widow of the deceased Juliao Cosme Lobo, who was a Physical Training Teacher in Government Aided School. His services were pensionable and upon his death, the Petitioner had moved the Authorities for grant of pension. A claim is also made by Respondent no.5, daughter of Juliao Cosmo Lobo, from his first wife which ended in divorce. Since, there was no

response for release and grant of family pension to the petitioner inspite of various requests, the Petitioner moved the present petition. Respondent no.5 has filed an application for intervention, which was granted. The amendment is not carried out which shall be carried out within a week.

3. Series of the orders have been passed in this petition. On 10 April 2018, it was directed as under:-

“Learned Counsel for the Respondent School states that the pension papers of the deceased were sent to the Government. However, they have been returned with the communication dated 6 April 2018.

- 2. Learned Additional Government Advocate states that the papers were returned since speaking sanction order was not issued by the Respondent School and, on instructions, states that after the speaking sanction orders are issued the Department will be in a position to process the papers.*
- 3. Learned Counsel for the Respondent School states that in view of the pendency of the present Petition and the application for intervention where rival claims have been made in respect of the pension, the sanction order could not be passed.*
- 4. The Intervention Application has not yet been allowed. As such, the learned Counsel for the Petitioner is seeking time to file reply to the*

intervention. However, we are of the opinion that this need not detain the School Authorities from processing the pension papers and further delay should be avoided as delay of six years has already occurred. The Respondent School can always process the papers subject to the outcome of the Writ Petition and subject to further order passed in this Writ Petition.

- 5. Learned Counsel for the Respondent, on instructions, states that necessary steps will be taken within a period of one week from today.*
- 6. Stand over to 26 April 2018.”*

Thereafter an order was passed on 26 April 2018, as under:-

“This petition is filed by the widow of late Juliao Cosme Lobo who was working with the Respondent-School, seeking family pension. Juliao Lobo passed away on 25 September 2012. Till date due to the inaction of the School and Education Authorities, the family pension has not been disbursed. An intervention application has been filed on behalf of the daughter of the deceased. Whatever may be the merits of the dispute between the Petitioner and the intervenor, the position that the pension papers have not been processed for last six years, cannot countenanced.

- 2. The Office Memorandum pursuant to Rule 103 of the Goa School Education Rules, 1986 lays down the procedure for implementation of the family pension scheme. It places certain*

responsibilities on the Head of the School, Zonal Education Officer and Director of Accounts. The Head of School is to do the spade work of preparation of the pension papers by obtaining relevant documents like Form 3, 5, and other material in prescribed forms from the employee. The preparation and finalization of pension papers has to be completed in all respects and in their eventual submission to the Zonal Education Officer. The Education Officer is thereafter supposed to sanction the provisional pension and take further steps as contemplated and finalize the pension papers and place before the Director of Accounts for disbursement.

- 3. The Petitioner has placed on record the representations made to the School right from the year 2013. It appears that only after the Court has passed an order in April 2018, some action has been taken. Today, we are informed that the School has not quantified the amount and the pension papers could not be processed by the Education Officer because the bank details of the rival claims and shares were not given.*
- 4. It appears that there is laxity on the part of the School Authorities and Education Department or that they are not aware what they are supposed to do under the Office Memorandum resulting in inexcusable delay of six years.*
- 5. The Director of Education will call the School Authorities, Zonal Education Officer and the Director of Accounts and ascertain what is the reason for the delay in this matter and issue*

necessary directions so that the matter can proceed further. The eventuality that there could be rival claimant for family pension is not unusual or unforeseen and there must be some methodology. The Authorities cannot be clueless like this. If the Petitioner had not approached this Court, the issue would have remained as it is. Therefore, the Director should also issue some general guidelines in such matters if there are not already issued.

- 6. As far as the claim of the intervenor and the Petitioner inter se is concerned, this will be considered by this Court or any competent Court but as stated earlier, that did not detain the Authorities from finalizing the preliminary pension papers.*
- 7. To enable the Director of Education to submit the report, the hearing of the petition is deferred to 12 June 2018.*
- 8. The intervention application is allowed. The Petitioner will make the intervenor as party Respondent before the next date.”*

4. Pursuant to the directions, the Deputy Director of Education passed an order on 24 April 2018 directing the Headmaster of the School in question for particulars and details. The same was replied to by the School Authority on 12 June 2018. The decision of the Director of Education that the amount will be deposited in this Court within a period of 30 days was recorded and the petition was deferred till date. We are informed that the amount has been

deposited.

5. The learned Counsel for the Petitioner submitted that the Petitioner who is the widow, is virtually a destitute and has no source of income. As against Respondent no.5 does not have financial hardships of such a nature and she is an advocate. It is the contention of the learned Counsel for the Petitioner that the Petitioner is forced to live in an old-age shelter. The learned Counsel for Respondent no.5 submitted that Respondent no.5 is also not in a good financial position and at least some portion of the amount be disbursed to Respondent no.5 and submitted that ultimately under the personal law governing the parties, the amount will have to be accounted for and distributed in the Inventory Proceedings, in case they are pending or will be instituted.

6. The claim has been pursued by the Petitioner throughout. Respondent no.5 has filed an intervention application in the petition, but the efforts of moving the Authorities have been made by the Petitioner. It is not disputed that the Petitioner is in financial difficulties and being looked after in an old-age home. It is, at this point of time in life that the Petitioner requires financial support much more than Respondent no.5, apart from the respective entitlement in law. If the amount is not disbursed to the Petitioner,

now it is difficult for her to sustain herself in the old-age. Respondent no.5, in view of her qualification and age can find sufficient means. We are informed that she has obtained a Law Degree.

7. Considering the facts and circumstances it will be in the interest of justice to permit the Petitioner to withdraw the amount deposited in this Court upon an undertaking to be filed within a period of two weeks on affidavit that the amount permitted to withdraw will be subject to the outcome of the Inventory proceedings filed or to be filed by the parties. Thus, the liberty granted to the Petitioner to withdraw the amount deposited will be subject to further orders to be passed in the Inventory Proceedings or any other civil proceedings pending or to be instituted between the parties.

8. Writ Petition is accordingly disposed of in the above terms.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.