

Sanjay Satu Naik } Petitioner
versus
Head Mistress/Principal, }
Laxmanrao Shivdanvakar }
Primary School and Ors. } Respondents

Mr. Vinod Mahadik for respondent nos. 3 to 5 (MCGM).

2. The petition proceeds on the basis that the petitioner married with this employee of the Municipal Corporation of Greater Mumbai and that, upon her death, he was entitled to claim the service benefits. The service benefits accrued on the death of this lady employee and the petition proceeds to say that

having been legally married to her, the petitioner should be allowed to draw these benefits.

3. On such a petition, we have an affidavit in reply of the Municipal Corporation of Greater Mumbai which says that the said Mansi Sanjay Naik was in the employment of the second respondent. Hence, assuming without admitting that the petitioner could have claimed benefits on the strength of his marriage with this Mansi, but, though the said Mansi served the Municipal Corporation of Greater Mumbai, she was not entitled to any pensionary benefits under the pension scheme framed by the Municipal Corporation of Greater Mumbai in the year 1997. It is stated that the second respondent, which is an institution which she served, was not provided with any grant-in-aid till 2001. It obtained 20% grant-in-aid in the month of June, 2001 and thereafter in the year 2005, 100% grant-in-aid was released to this school run by the second respondent. The petitioner is not entitled to claim any other benefit save and except provident fund and balance salary, because the employees in employment of a private primary aided school in Greater Mumbai alone are entitled to get pensionary benefits in terms of the above policy. The pensionary benefits could not have been extended to such of the employees, who retired, superannuated and expired on or after 1st April, 1979.

4. It is on these facts and because the employee concerned did not render the qualifying service being dis-entitled to pension that the allegations are denied. We do not think that we should grant Mr. Kulkarni appearing for the petitioner any time to file a rejoinder affidavit or to bring on record certain facts which are entirely personal to the employee. The petition proceeds on the footing that pension was admissible to the said Mansi and the same be released in favour of the petitioner being her husband. However, since we find that Mansi did not qualify for pension, we should not allow the petitioner to reopen the record. The entire position, as emerging from the record, relied upon by the Municipal Corporation, was admitted by the employee. In these circumstances, we do not think there is any substance in this writ petition. It is dismissed, but without any order as to costs.

5. In the event there are any arrears of salary of the deceased Mansi, then, respondent nos. 1 and 2 shall ensure that the salary and provident fund, if not released, is released in favour of the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

(SMT. BHARATI H. DANGRE, J.) (S.C.DHARMADHIKARI, J.)