

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO.877 OF 2017

Smt. Rakhmabai Krishnaji Nehere ... Petitioner

Vs

State of Maharashtra & Ors. ... Respondents

...

Mr. Vilas B. Tapkir for the Petitioner.

Mr. P.P.More, AGP for the Respondent-State.

CORAM : A.S.OKA &

SANDEEP K. SHINDE JJ.

DATE : 28 NOVEMBER, 2018

P.C. :

The learned AGP has not received any instructions. Considering the fact that the issue is of denial of family pension to the Petitioner whose today's age is more than 80 years, we have forthwith taken up the Petition for final disposal.

2 **Rule.** The learned AGP waives service for the Respondents.

3 Facts are brief. The Petitioner's deceased husband was working as a Talathi in the employment of the First Respondent-

State of Maharashtra. The case of the Petitioner is that after her marriage with her husband, in the year 1950, her husband performed second marriage with one Shantabai. Her husband superannuated in the year 1978 and in the year 1996, her husband applied to the third Respondent for entering the names of his both the wives in the service record for the purposes of pension. The second wife died on 2nd April, 2002. Thereafter, the Petitioner's husband informed the Treasury Office about the death of the second wife. On 16th May, 2007, the Petitioner's husband died. The grievance in this petition under Article 226 of the Constitution of India is that after the death of her husband, the family pension has not been paid to the Petitioner. The present Petition was filed on 22nd April, 2016 and appeared on board from time to time from 22nd February, 2017.

4 Shri Sadanand A. Bijjargi, Senior Accounts Officer working in the office of the third Respondent has filed affidavit-in-reply. It is accepted in the reply that the deceased husband of the

Petitioner communicated on 1st January, 1996 to the Treasury Office of Pune that the names of his both the wives be entered in the service record. It is stated that Tahsildar, Khed, the sanctioning authority for the pension, made an endorsement on 29th April, 2014 to scrutinise claim of the present Petitioner and to furnish necessary family pension papers (Form No.12) from the Petitioner. The papers were received by the office of the third Respondent-Accountant General on 22nd May, 2018 and the third Respondent authorised payment of family pension to Treasury Office of Pune by order/communication dated 29th May, 2018. A copy of the order dated 29th May, 2018 addressed to Tahsildar is annexed to the said affidavit. A copy of the said order dated 29th May, 2018 addressed to the Treasury Office, Pune is tendered across the bar. It is taken on record and marked 'O-1' for Identification. The said order discloses that pension amount at the rate of Rs.2882/- per month is payable to the Petitioner from 17th May, 2007. The learned counsel appearing for the Petitioner on instructions states that notwithstanding the said order, the family pension amount has not been released to the

Petitioner.

5 Facts disclosed from the Petition and affidavit-in-reply show shocking state of affairs. The Petitioner's husband died on 16th May, 2007 when age of the Petitioner must be around 70 years. For a period of more than 11 years, the Petitioner has been denied family pension to which she was legitimately entitled to. The affidavit-in-reply discloses that there were procedural delays and scrutiny of the claim of the Petitioner took a time of about four years.

6 Even after the order was made by the third Respondent on 29th May, 2018, the Petitioner has been deprived of the pension. Therefore, this is a fit case where the State Government should be saddled with costs quantified at Rs.25,000/-. Moreover, if the entire arrears of pension amount and regular pension is not released within a reasonable time fixed by this Court, the State Government will have to be directed to pay interest on the said amount.

7 Accordingly, we dispose of the Petition by passing the following order:

- (i) We direct the first Respondent and second Respondent to pay family pension to the Petitioner as fixed under order dated 29th May, 2018 together with entire arrears due from 17th May, 2007 upto date within maximum period for six weeks from the date on which this order is uploaded;
- (ii) If the entire arrears of pension are not paid within the period fixed as above, the first and the second Respondents shall pay interest on the entire arrears amount to the Petitioner @ 7% per annum from 29th May, 2018 till actual date of payment;
- (iii) Alongwith the arrears of family pension which are payable within six weeks from the date on which this order is uploaded, the first and second Respondent shall pay the costs quantified at Rs.25,000/- to the Petitioner.

(iv) Rule is made absolute on the above terms.

8 For reporting compliance with the directions issued as above, the Petition shall be listed on 22nd February, 2019 under the caption of 'Directions'.

(SANDEEP K. SHINDE, J.)

(A.S.OKA, J.)