

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1155 OF 2018

Smt. Sunita Wd/o Bharat Gavhane and Anr. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. S.S. Panale, Advocate for Petitioners
Mr. S.B. Pulkundwar, Assistant Government Pleader
for Respondent No. 1
Mr. V.M. Chate, Advocate for Respondent Nos. 2 to 4

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 24th APRIL, 2019

ORAL ORDER:

1. Mr. Panale, the learned Counsel for the petitioners submits that the petitioner No. 2 is the second wife of deceased Bharat Gavhane, however, the payment of family pension is not considered in favour of the petitioner No. 2. The learned Counsel submits that even second wife is entitled for family pension.

2. Mr. Chate, the learned Counsel appears for respondent No. 4 and submits that the petitioner No. 2 is not entitled for family pension.

3. The Full Bench of this Court in case of ***Kamabai Venkatrao Nipanikar Vs. The State of Maharashtra in Writ Petition No. 9933/2016 with other connected Writ Petitions vide Judgment dated 31.01.2019*** has held that the second wife who is not legally wedded wife is not entitled for the family pension during subsistence of first marriage, the second marriage has been performed. The same is void. In view of that, the request of the petitioner as prayed in the present petition cannot be considered.

4. However, it is submitted by Mr. Panale that the petitioner No. 2 has minor children begotten from the deceased Bharat Gavhane. In that case, the petitioner may submit application for grant of family pension to the minor son of petitioner No. 2 begotten from Bharat Gavhane. The same shall be considered by the respondent-authorities on its own merits in consonance with the Rules 116 of the Maharashtra Civil Services (Pension) Rules.

5. As Mr. Panale has conducted the matter, the appearance of Mr. S.S. Dambe, learned Counsel stands discharged.

6. The Writ Petition is accordingly disposed of. No costs.

[**A. M. DHAVAL**]
JUDGE

[**S. V. GANGAPURWALA**]
JUDGE

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