

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.

WRIT PETITION NO. 12156 OF 2018

Jyoti w/o. Dyaneshwar Mapari

.... Petitioner

Versus

The Union of India & 8 others

.... Respondents

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Shri. M. K. Deshpande, Advocate for the petitioner

Shri. S. B. Deshpande, ASGI for respondents No. 1 to 7

Shri. Prakash B. Paithankar, Advocate for respondent No. 8

Shri. Rajendra H. Wagh, Advocate for respondent No. 9

Shri. S. S. Deve, Advocate for respondents No. 1 to 7

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

DATE : 04TH FEBRUARY, 2019

ORAL ORDER:

1. We have heard the learned counsel for the respective parties.

2. The petitioner seeks directions to withhold the terminal benefits / commutation of pension benefits and/or all other payable perks to respondent No. 9 on his retirement. The petitioner further seeks declaration that, the petitioner and her kids are entitled to 50% of the entire terminal benefits of the amounts which are to be

received by respondent No. 9 on superannuation and further prays that, the respondent No. 9 shall be allowed to disburse only 50% of the amount and remaining 50% shall be kept in the joint account bearing No. 37537649429 maintained with respondent No. 8-Bank.

2. The petitioner relies on Rule 9 of the Pension Regulations for the Army.

3. As per Rule 9, it is for the competent authority to determine the aspect of suspending, withholding or discontinuing the pension.

4. The petitioner's prayer is to the extent of 50% of the retiral benefits.

5. In the light of that, the respondent No. 8-Bank should allow disbursal of 50% of the retiral benefits deposited with the Bank by the employer to the respondent No. 9. Remaining 50% of the amount shall be retained by the Bank till the competent authority takes a decision as per Rule 9 of the Pension Regulations for the Army.

6. The competent authority shall take decision as per Rule 9 of the Pension Regulations for the Army as to whether the payment of the part of pension allowances or gratuity is to be paid to the wife and the other dependants, on its own merits. The same shall be decided by the authority within a period of two months from today. Depending upon the decision taken by the competent authority and the Bank, the parties shall proceed further. Needless to state that the decision taken by the competent authority as per Rule 9, can be assailed by the party affected. The authority shall also decide the scope of the interference of the competent authority with regard to the payment of retiral benefits to the petitioner or otherwise.

7. As far as prayer clause 'D' is concerned, the petitioner may avail the remedy as may be permissible in law.

8. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE