

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.563 of 2019

Smt. Kasabai wd/o Maroti Jadhav

Versus

The Zilla Parishad, Yavatmal

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri K.S. Narwade, Advocate for the petitioner,
Shri Rahul Tajne, Advocate for the respondent.

Coram : R.K. Deshpande & Vinay Joshi, JJ.

Date : 06.08.2019.

The husband of the petitioner was working as Assistant Teacher in the school run by the respondent - Zilla Parishad, Yavatmal. After rendering 20 years of continuous service, he was dismissed on 05.08.1981, after holding an enquiry in respect of charge of willful absence from duties for a period of ten months. The employee thereafter expired in the year 1985 and this petition is filed by widow on 21.11.2018 to challenge the dismissal from service of the husband and claiming the family pension.

On 23.01.2019, we issued notice for final disposal of the matter. We passed a speaking order in which we considered *prima facie* two aspects : (i) about existence of alternate remedy and (ii) the delay in approaching this Court. We perused the judgment relied upon by the learned counsel for the petitioner in the case of ***S.K. Mastan Bee .vs. The General Manager, South Central Railway and***

another, reported in **2003 (1) ALL MR 744 (S.C.)**.

In the decision of *S.K. Mastan Bee* delivered by the Supreme Court (cited supra), it was a case where the husband of the appellant died in harness while in service and the widow claimed family pension. It is, in these background, that the judgment was delivered by the Supreme Court holding that denial of family pension amounts to violation of right to life guaranteed under Art. 21 of the Constitution of India.

In the present case, the petitioner was dismissed from service on 05.08.1981, after holding an enquiry and finding him guilty for willful absence from duties for a period of ten months. The employee expired in 1985, but did not choose to challenge the order of dismissal. The present petition is filed on 21.11.2018. We are not satisfied with the explanation given for the delay by the petitioner. Hence, we are of the view that the petition needs to be dismissed on the ground of delay and laches.

The petition is accordingly **dismissed**.

(Vinay Joshi, J.)

(R.K. Deshpande, J.)