

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

WRIT PETITION NO. 1265 OF 2018

Smt. Kasabai W/o Shamrao Shingare ... Petitioner.

Versus

The Union of India
and others ... Respondents.

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Mr. B.V. Thombre, Advocate for the Petitioner.
Mr. Bhushan Kulkarni, Advocate for Respondent No.1
Mrs. G.L. Deshpande, A.G.P. for Respondent-State.
Mr. S.A. Kulkarni, Advocate for Respondent Nos.5, 6 and 9.

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**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 21st SEPTEMBER, 2020

PER COURT:-

. The husband of the petitioner was freedom fighter. He was receiving freedom fighter pension. The husband of the petitioner died on 03.05.2016. The son of the petitioner on or about 26.07.2016 communicated to the State Bank of Hyderabad that the husband of the petitioner Shamrao Narayan Shingare died on 03.05.2016. The pension be paid to his widow i.e. the present petitioner. The present petitioner also communicated on 15.11.2016 to the State Bank of Hyderabad about the death of her freedom fighter husband and asked

that the family pension be paid to her. The Bank, on or about 22.12.2016, communicated to the Manager CPPC, State Bank of Hyderabad communicating to stop the payment of pension to the deceased freedom fighter and start paying the same to the present petitioner. The communications were made from time to time by the petitioner to the Bank. It appears that the application in proper format was made to the Bank. The Bank in turn forwarded it to the respondent No.1. The family pension is sanctioned to the petitioner on and from 01.10.2017. The grievance of the petitioner is non receipt of the family pension from 03.05.2016 to 27.09.2017 .

2. The stand of respondent No.1 is that as per clause 5.2 of the revised policy guidelines for disbursement of Central Samman Pension to be followed by the public sector Bank, the application for transfer of pension shall be made within six months of the death of the freedom fighter. Application received after six months shall not be considered by the Bank but referred to the Ministry. Mr. Kulkarni, learned counsel for Respondents also relies on clause 5.2.2 of the scheme of the guidelines and submits that the dependent pension shall be paid from the date of application by the spouse and not from the date of death of the pensioner. According to Mr. Kulkarni, the

learned counsel for the respondents the application dated 06.07.2017 is received by the department in the month of September, 2017 and the petitioner is sanctioned family pension from 01.10.2017. No illegality has been committed.

3. We have considered the submissions canvassed by the learned counsel for the parties.

4. The factual matrix that the deceased husband of the petitioner being a freedom fighter and sanctioned freedom fighter pension is not disputed. The death of the husband of the petitioner on or about 03.05.2016 is also not disputed. It is also matter of fact that the petitioner is receiving family pension on account of the death of her freedom fighter husband from 01.10.2017. The non payment of the family pension for the interregnum period from 03.05.2016 to 27.09.2017 is only the matter for consideration before this Court. The revised policy guidelines are relevant. Clause 5.2 of the said revised policy guidelines prescribes that, “after the death of the freedom fighter pensioner, the transfer of the pension to the spouse will only be considered if the spouse applies for the transfer of pension within six months of the death of. Application received after six months shall not be considered by the Bank but referred to the Ministry. The

Ministry shall then take a view whether to allow dependent pension or not or whether any arrears are to be paid.” Clause 5.2.2 further prescribes that, “ the dependent pension shall be paid from the date of application by the spouse and not from the date of death of the pensioner.”

5. Placing clause 5.2 and 5.2.2 in juxtaposition, it appears that both are not compatible with each other. Clause 5.2.2 does not give any discretion to the authority to grant pension from the date of death of the pensioner and it shall be paid only from the date of application. Clause 5.2 gives discretion to the Ministry and the Ministry can also take the decision on payment of arrears even if the application is received after six months from the date of death of pensioner. The guidelines for disbursement of Central Samman Pension Scheme are to be followed. The Central Samman Pension Scheme is benevolent scheme meant to ameliorate the conditions of the freedom fighters who had made sacrifice for the country. Due to the sacrifice made, they had to either give up education or suspend their avocation. The welfare schemes and benevolent schemes will have to be given liberal interpretation. The scheme gives discretion to the Ministry to consider the payment of arrears even if the application is received after the six months after the death of the pensioner.

6. In the present case, the pensioner had died on 03.05.2016 and after the death of the pensioner, the application was given by the son of the deceased on 26.07.2016, intimating the Bank to pay the family pension to the present petitioner. The said intimation was given within three months. Subsequent applications were given from time to time in large numbers for payment of family pension. For the first time on 26.07.2016, the application was given by the petitioner for family pension. It appears that the application in proper format was made on 06.07.2017.

7. The petitioner before us is old aged lady residing in rural village and illiterate. She cannot sign. She can put only her thumb impression. Only because the application was not given in the proper format and the simple application was given, the authority adopted technical approach to deny the family pension. The family pension is the only source of livelihood of the petitioner. The scheme will have to be interpreted in the manner so as not to render the scheme superfluous.

8. Considering the aforesaid aspect of the matter and further that the application was given by the petitioner well within a period of six months though may not be in the proper format, we direct the respondent No.1 to pay the arrears of family pension to the petitioner on account of death of her husband for a period from 03.05.2016 to 27.09.2017. The same shall be paid within three months from today.

9. The writ petition is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

S.P. Rane