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

936 WRIT PETITION NO.9209 OF 2021

SUSHMA PANDHARINATH MAHAKE
VERSUS
THE UNION OF INDIA THR ITS SECRETARY AND
OTHERS

...

Mr V. S. Undre, Advocate h/f Mr S. A. Deshmukh, Advocate for
petitioner;

Ms Sudha Chintamani, Advocate for respondent Nos.1 to 3

Mr P. S. Patil, A.G.P. for respondent No.5

**CORAM : RAVINDRA V. GHUGE
AND
S. G. DIGE, JJ.**

DATE : 13th April, 2022

PER COURT:

1. The petitioner is a daughter of an Ex-serviceman, who seeks a decision on a representation made by her deceased mother, dated ___/07/2019, seeking pensionary benefits. She is 47 years of age and it is not disclosed whether she is married or not.

2. The learned Standing Counsel for the Union of India has tendered an affidavit-in-reply along with several documents and points out that the letter dated 02/11/2019 is by way of a communication to the widow that, her husband, who was a Sepoy, developed a disability after rendering 6 years, 8 months and 26 days

(2)

service. He was invalidated out of service by an order dated 23/09/1978 under Army Rule 13(3) Item III (iii). He was placed in the Medical Category CEE (Temp) for six months w.e.f. 09/12/1977 by the Medical Board. His disability claim was forwarded to the PCDA(P), Allahabad, for consideration of his request for disability pension. The same was rejected as the disability suffered by him was not attributable to the Military service.

3. As such, with the rejection of the disability pension practically 40 years ago, and which was not assailed by the deceased, who passed away on 10/04/2002, we do not find that he was entitled for any family pension or even disability pension.

4. The petitioner is the daughter of the deceased and this litigation is initiated by the next generation of the deceased, who himself had accepted the order of rejection of his claim for disability pension. This petition is filed after 19 years of his demise.

5. In view of the above, this petition is devoid of merits and is, therefore, dismissed.

(S. G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)

sjk