

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9239 OF 2022

SANJAY GANPAT PRASAD TIWAREE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for petitioners : Mr. Arun G. Dalal
AGP for the respondent – State : Mr. K.N. Lokhande
...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 13 SEPTEMBER 2022

ORDER (MANGESH S. PATIL, J.) :

Heard the learned advocates for the petitioners and the learned AGP.

2. The petitioners are the sons of the applicant – Chandrakalabai who had filed original application before the Maharashtra Administrative Tribunal claiming to be the wife of late Ganpatprasad Pardeshi (Tiwaree) who was serving as a Motor Mechanic in the office of the Superintendent of Police, Osmanabad (respondent no. 2), claiming monthly family pension. By the order under challenge the Tribunal dismissed the original application inter alia holding that the circumstances brought on record falsified her claim of being widow of late Ganpatprasad.

3. Mr. Dalal would submit that right in the teeth of the heirship certificate, Chandrakalabai's claim could not have been rejected. The Tribunal has unnecessarily undertaken minute scrutiny to reach a remote conclusion falsifying her claim of being the widow of Ganpatprasad. The order is illegal and petitioners being the sons of Chandrakalabai are entitled to put up a challenge.

4. The learned AGP supports the impugned order.

5. We have carefully considered the submissions of Advocate Dalal and perused the papers.

6. At the outset, even before adverting to the merits, it is crucial to note down certain circumstances which according to us are eloquent enough and even would justify our decision to not entertain the writ petition.

7. Ganpatprasad died in the year 1983. Though petitioners' mother - Chandrakalabai was asserting and even they are claiming that she was the second wife of Ganpatprasad, for the first time she submitted the application with the respondent no. 2 to sanction her the family pension in the year 2012 i.e. after about 29 years from the date of death of Ganpatprasad. Even after her request was rejected or was not being considered favourably, she took another 3 years to file the

original application before the Tribunal. It was rejected by the impugned order in 2015. Aggrieved thereby she filed writ petition no. 703 of 2017. She died on 17-07-2018 during pendency of that petition.

8. Since no steps were taken, obviously by the petitioners being her sons to set aside the abatement and to come on record, by the order dated 01-03-2022 this Court disposed of the writ petition as abated. Instead of moving any application seeking setting aside of the abatement to revive the writ petition, the petitioners have preferred the present petition putting up a fresh challenge to the selfsame order of the Tribunal whereby it had rejected Chandrakalabai's original application.

9. We are afraid, such a course is unheard of and patently illegal. If Chandrakalabai had put up a challenge to the selfsame order of the Tribunal but had died during pendency of her writ petition and it was disposed of as abated, one wonders how the petitioners could have preferred fresh writ petition. Precisely for this reason alone, the petition is liable to be dismissed.

10. Even if we decide to consider the matter on merits, the dispute as to whether Chandrakalabai was the widow of Ganpatprasad was the issue which was addressed to and decided by the Tribunal by

the judgment under challenge. It has referred to various attending circumstances which according to it falsified such a claim by Chandrakalabai. According to us, the observations and the conclusions of the Tribunal are clearly borne out from the circumstances discussed by it. It has noticed that no claim was put up for the family pension for almost 29 years after demise of Ganpatprasad which conduct in itself was sufficient to create a serious doubt about Chandrakalabai's claim.

11. Though the death certificate that was available with the office of the respondent no. 2 was issued by Municipal Corporation of Hyderabad, Chandrakalabai had produced a death certificate issued by Grampanchayat certifying that he had died at village Kanergaon (Naka). Again, it was also noticed that the heirship certificate was obtained by Chandrakalabai without arraying the present respondents nos. 6 to 10, who even according to petitioners, are the legal heirs of Ganpatprasad being his sons from his first wife – Shantabai. It also noticed that if at all Ganpatprasad had married Chandrakalabai in the year 1971, he would have immediately taken steps to nominate her in the pension papers but that was not done.

12. In our considered view, in the absence of any cogent and convincing evidence to reach a conclusion that Chandrakalabai was Ganpatprasad's widow, the conclusion drawn by the Tribunal being

based on a plausible appreciation of the material on the record, cannot be said to be perverse or arbitrary so as to enable this Court to cause any interference in exercise of writ jurisdiction.

13. The writ petition is dismissed.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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