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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.917 OF 2019

Mrs. Virginia Regina De Silva e Lobo,
Widow of late Juliao Cosme Lobo,
Age 55 years, Indian National,
R/o H. No. 1063, Modlo Waddo,
Near Morjim Church,
Morjim, Pernem Goa.

... Petitioner

Versus

1. State of Goa,
Through its Chief Secretary,
Secretariat Complex, Porvorim,
Bardez Goa.

2. Director Accounts
Through Deputy Director of Accounts,
(Pension Section),
Directorate of Accounts,
Panaji-Goa.

3. Director of Education,
Through Deputy Directorate of Education,
North Education Zone,
Mapusa Bardez Goa.

4. The Head Master,
St. Joseph High School,
Arpora, Bardez-Goa.

5. Adv. Monaliza Lobo, [amended as per order
Models Marine Heights dated 26.11.2019]
F1/S4, Aivaovaddo, Caranzalem
Tiswadi-Goa.

... Respondents

Mr. Mahesh Amonkar, Advocate *for the Petitioner*.

Mr. Devidas Pangam, Advocate General with Mr. Prashil Arolkar, Additional Government Advocate *for Respondent Nos.1, 2 and 3*.

Mr. Ryan Menezes and Mr. Nigel Fernandes, Advocates *for Respondent No.5*.

**CORAM: M.S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 10th October, 2022

ORAL JUDGMENT: *(Per M.S. Sonak, J.)*

1. Heard Mr. Amonkar for the Petitioner, Mr. D. Pangam, learned Advocate General who appears along with Mr. Arolkar, learned Additional Government Advocate for Respondent Nos.1, 2 and 3 and Mr. Ryan Menezes, learned Counsel for Respondent No.5.
2. Rule. Rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.
3. For the order that is proposed to be made, the presence of Respondent No.4 is not necessary. On 04.10.2022, we made the following order after recording the submissions made by Mr. Amonkar and Mr. Menezes on the issue of sharing the retiral benefits:-

“Mr. Amonkar, learned counsel for the petitioner submits that the petitioner would be entitled to the family pension upon the death of her husband, Juliao Cosme Lobo, to the exclusion of respondent no.3.

2. Mr. Ryan Menezes, learned counsel for respondent no.5, does not dispute this position in view of the prevailing pension rules. However, he submits that the retiral benefits earned by Juliao Cosme Lobo will have to be shared in equal proportions by the petitioner and the respondent no5.

3. *Mr. Amonkar, learned counsel states that the petitioner will have no objection to share 50% of the retiral benefits accrued to Juliao Cosme Lobo, before his demise, with the respondent no.5.*

4. *Learned counsel, however, submit that there is no clarity about the precise status of the amounts withdrawn by the petitioner in terms of this Court order dated 09.07.2018 in Writ Petition no.100 of 2018. Therefore, even though there is no dispute between the contesting parties on the above stated particulars, it may be necessary to work out the details and determine the precise entitlement of each of the parties.*

5. *Learned Advocate General states that in terms of this Court order dated 09.07.2018, the Director of Education had submitted a report. He submits that this report will perhaps persist in understanding the precise nature of the deposit made in this Court.*

6. *Accordingly, we post this matter on 10.10.2022 to enable the Director to file the said report or to otherwise explain the status of the deposit made in this Court.*

7. *Registry is directed to place the file in Writ Petition No.100 of 2018 alongwith this file by 10.10.2022.*

8. *Stand over to 10.10.2022.”*

4. Mr. Amonkar and Mr. Menezes, based on instructions of the parties whom they represent, again state that this petition can be disposed of by directing the Petitioner to pay an amount of ₹7,75,000/- to Respondent No.5. This amount constitutes approximately 50% of the retiral benefits accrued to Juliao Cosme Lobo before his demise. Learned Counsel again, on instructions, reiterated that after the demise of Juliao Cosme Lobo, the family pension can be paid in its entirety to the Petitioner.

5. The State had deposited an amount of ₹15,00,506/- towards lifetime arrears of pension, retirement gratuity and commutation value with the Registry of this Court. The Petitioner was allowed to withdraw this amount. Mr. Amonkar states that the Petitioner will now deposit in this Court ₹7,75,000/- corresponding to approximately 50% of the withdrawal amount within two weeks from today. He states that upon such deposit, Respondent No.5 can withdraw the said amount.

6. Mr. Menezes, learned Counsel for Respondent No.5 states that the family pension amount after the demise of Juliao Cosme Lobo can be paid in its entirety to the Petitioner for which the Respondent No.5 will have no objection or claim. This statement is also accepted.

7. Mr. Menezes and Mr. Amonkar have pointed out that there are Inventory Proceedings No.72/2018 pending before the Civil Judge, Junior Division at Pernem concerning the estate of late Juliao Cosme Lobo. They submit that the statements made and recorded in this petition are without prejudice to their contentions before the Inventory Court though they agree that they will not once again contest the issue of retiral benefits of late Juliao Cosme Lobo and its apportionment. They request that same directions be issued for expeditious disposal of those Inventory Proceedings.

8. Accordingly, the Civil Judge, Junior Division at Pernem is directed to dispose of Inventory Proceedings No.72/2018 as expeditiously as possible in accord with law and without being influenced by the present order or the statements made and recorded in the present order.

9. All contentions of all parties with regard to the estate of late Juliao Cosme Lobo are therefore kept open to be decided by the Inventory Court, except the decision on the issue of retiral benefits which stands settled by this order.

10. This petition is accordingly disposed of, *inter alia*, by directing the Petitioner to deposit the sum of ₹7,75,000/- in this Court within two weeks from today. Upon such deposit, the Respondent No.5 is permitted to withdraw the said amount by furnishing identification and bank details so that the Registry can directly transfer this amount into her bank account. Similarly, it is made clear that it is only the Petitioner who shall be paid the family pension consequent upon the demise of Juliao Cosme Lobo and for which the Respondent No.5 shall have no objection of whatsoever nature.

11. Accordingly, Respondent Nos.1, 2 and 3 are directed to pay family pension including arrears, if any, to the Petitioner. Arrears, if any, to be paid within two months from today. However, if there is delay of over two months in payment of family pension or arrears, then, the Respondent Nos.1, 2 and 3 will have to pay interest at the rate of 7% per annum on the arrears of family pension right from the date such amounts become due and payable. This shall be without prejudice to such action as they may be liable for not complying with the directions now issued. The Inventory Proceedings No.72/2018 are also ordered to be expedited.

12. The Rule is made absolute in the above terms. There shall be no order for costs.

BHARAT P. DESHPANDE, J.

M.S. SONAK, J.