

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

WRIT PETITION NO.2901/2021

Smt. Shantabai wd/o Ghasita Baksare,
aged about 71 years, Occ. Nil,
r/o Opp. Tahsil Office, Boriyapura,
Kamptee, Tq. Kamptee, Dist. Nagpur.
Mob.9503480140

.....PETITIONER

...V E R S U S...

1. The Municipal Commissioner,
Nagpur Municipal Corporation,
Nagpur.
2. Deputy Director of Health Services,
Nagpur Municipal Corporation,
Nagpur.

...RESPONDENTS

Mrs. S. W. Deshpande, Advocate for petitioner.
Mr. S. N. Bhattad, Advocate for respondents.

CORAM:- ROHIT B. DEO & ANIL L. PANSARE, JJ.
DATED :- 29.08.2022

J U D G M E N T (Per: Anil L. Pansare, J.)

Rule. Rule is made returnable forthwith. Heard
finally by consent of learned counsel for the parties.

2. The petitioner is seeking a direction to release the family pension to her, being widow of deceased Ghasita Rama Baksare, who was working as *Safai Kamgar* with the respondents. The said Ghasita expired on 12.05.2010. The petitioner, on 23.03.2015, applied to the respondents for family pension. The respondents, by communication dated 25.09.2018 directed the petitioner to get succession certificate. The petitioner obtained the succession certificate from appropriate Civil Court and submitted to the respondents. However, the respondents vide communication dated 15.01.2020, informed the petitioner to get a decree of adjudication of rival claims from Civil Court by making Rita Baksare as defendant.

3. According to the petitioner, Rita Ghasita Baksare is allegedly adopted by the deceased Ghasita Baksare, when he started living in relation with one Shanta Jiyalal Kasekar. The said Shanta was also in service with respondent as *Safai Kamgar*. She expired on 05.08.1998.

4. The learned counsel for the petitioner submits that the deceased Ghasita did not seek divorce from the petitioner

and therefore, the petitioner is the legally wedded wife of the deceased Ghasita. On the point of relation of Rita Ghasita Baksare with the deceased Ghasita, the petitioner claims that there is no legal adoption of Rita. Thus, the petitioner has disputed the relationship of Rita with the deceased Ghasita.

5. Be that as it may, the fact remains that the respondents have initially directed the petitioner to submit succession certificate for the purpose of releasing the family pension in her favour, which the petitioner did. It is neither clear nor could learned counsel for the respondents clarify as to why was decree of adjudication of rival claims not sought earlier. Nevertheless, a copy of letter dated 15.01.2020, by which decree of adjudication is sought, has been forwarded to Rita. Her mobile number is also written below her address. In that sense, the respondents were/are fully aware of the details of Rita. In the circumstances, when the petitioner has obtained succession certificate and when Rita has not raised any claim for family pension since the year 2010 and when the respondents have all the details of Rita the respondents were and are at liberty to contact her and to verify her stand as to

whether she has any objection if the family pension is released in the name of the petitioner. In the circumstances, we do not find any reason why the family pension should not be released in favour of the petitioner.

6. At this stage, Mr. Bhattad, learned counsel for the respondents, submitted that the respondents are ready to release family pension in favour of the petitioner, if interest of the respondents is protected by directing the petitioner to furnish an undertaking in the Court so also to the respondents to the effect that in case in future, Rita Baksare raises a claim for family pension, the petitioner shall indemnify the respondents. Ms Deshpande, learned counsel for the petitioner, submits that such undertakings shall be furnished.

7. We, therefore, proceed to pass the following order.

- (i) The writ petition is partly allowed.
- (ii) The respondents are directed to release the family pension in favour of the petitioner from the date of death of Ghasita Rama Baksare, strictly in accordance with the pension rules as applicable.

(iii) The petitioner shall furnish an undertaking before the Court so also before the respondents to the effect that in case in future Rita Baksare raises claim for family pension, the petitioner shall indemnify the respondents.

(iv) Rule is made absolute in the above terms. No order as to costs.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

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