

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INTERIM APPLICATION NO. 2137 OF 2023

IN

LUNACY PETITION NO. 7 OF 1998

SHRIKANT
SHRINIVAS
MALANI

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Jaywant Sakharam Jadav

...Applicant/Petitioner

Versus

Bank of India

...Respondent

* * *

- Mr. C.S. Lamba, for the Applicant/Petitioner.
- Ms. Pallavi Chari i/by O.A. Das, for Respondent.

* * *

CORAM : MANISH PITALE, J.

DATE : 30th JUNE, 2023.

P. C. :

1. Heard, learned Counsel for the parties.

2. By this application, the Applicant (Original Petitioner) has sought specific direction against the Respondent - Bank, in the context of family pension payable to Subhadra Sakharam Jadhav, the sister of the Applicant.

3. The Applicant had filed Lunacy Petition No. 7 of 1998, seeking specific reliefs in respect of the said Subhadra Sakharam Jadhav. Both parents of the Applicant as well as the sister i.e. Subhadra Sakharam Jadhav were employees of the Railways. The said petition was disposed of by an order dated 28th August, 1998, whereby the Lunacy Petition was allowed and Subhadra Sakharam Jadhav was declared as a person of unsound mind and the Applicant

was declared as guardian of the person and property of the said Subhadra Sakharam Jadhav i.e. his sister. Further directions were given towards entitlement of the Applicant to receive monthly family pension payable to Subhadra Sakharam Jadhav and also to collect the arrears of such family pension. Ancillary directions were also given in the said order.

4. By the present application, the Applicant has brought to the notice of this Court that for a specific period, payment of a monthly family pension was stopped and the amounts were instead credited to a fixed deposit. It was further submitted that apart from the same, there were two other fixed deposits lying in the Bank, with no information regarding details of the same. It is the case of the Applicant that despite pursuing the matter with the Respondent – Bank, there was no positive outcome forthcoming, compelling the Applicant to approach this Court by way of the present application.

5. During the pendency of the application, the same was amended to add further prayers including specific direction to the Respondent – Bank to co-operate and provide all information regarding the credit of the family pension, as per the order passed by this Court.

6. Today, when the application is called out for hearing, the

learned Counsel appearing for the Respondent – Bank has tendered an affidavit, which is taken on record. In the affidavit, information is placed before this Court and certain documents are annexed, to indicate that the amounts lying in the fixed deposits could be credited to the Applicant for the benefit of the said Subhadra Sakharam Jadhav.

7. There is no dispute about the fact that as on today monthly family pension is indeed being credited in the account of the Applicant, for the benefit of said Subhadra Sakharam Jadhav.

8. A perusal of the documents filed along with the affidavit shows that the Railway Authorities had also indicated that the arrears of family pension are lying in the fixed deposits and that the Bank may proceed as per the direction of the Court.

9. Considering the affidavit placed on record, it appears that the present application can be allowed in terms of prayer clauses (a), (c) and (d).

10. In view of the above, the application stands allowed in terms of prayer clauses (a), (c) and (d), which read as follows :

“a) That this Hon’ble Court may be pleased to allow to petitioner to withdraw the 3 Fixed Deposits. Viz. 1) Account No. 004045110017686 dated 15th July, 2015, for the amount of Rs. 2,17,122.00, 2) Account

No. 004045110017687 dated 15th July, 2015, for the amount of Rs. 1,93,773.54 and 3) Account No. 004045100011481 dated 20th July, 2019, for the amount of Rs. 1,59,780.31, lying with the Bank of India at Santacruz, Branch, Mumbai as a guardian of his Lunatic sister Miss. Subhadra Sakharam Jadhav

- c) This Hon'ble Court be pleased to Credit the arrears of accrued family pension lying with the Respondent since 1998 to the Account of the Petitioner.*
- d) This Hon'ble Court be pleased to direct the Respondent to continue to credit the family pension amount in the account of the Petitioner as per Order dated 28th August, 1998 and further allow the Petitioner to withdraw the monthly family pension amount from his account."*

11. It is further clarified that the amount towards interest lying in the fixed deposits shall also be credited to the account of the Applicant for the benefit of Subhadra Sakharam Jadhav.

12. Before parting with the matter, this Court would like to indicate that in such matters parties like the Respondent – Bank herein are expected to act with sensitivity and that litigants like the Applicant before this Court in the present case ought not to be compelled to knock the doors of Court for reliefs. But for the approach of the Respondent – Bank and its concerned officers, the reliefs would have been made available to the Applicant and through

him to the said Subhadra Sakharam Jadhav without intervention of this Court.

13. It is expected that the Respondent – Bank takes note of this aspect of the matter so that the litigants like the Applicant in this application are not unnecessarily compelled to move the Court for such directions.

14. The learned Counsel appearing for the Respondent – Bank assures this Court that the order passed today shall be communicated to the Bank for expeditious action in the matter. The Bank shall also act upon on an authenticated copy of the order passed today.

15. Accordingly, the application is disposed of in above terms.

(MANISH PITALE, J.)