

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

WRIT PETITION 775/2022

SMT. SANDHYA WD/O RAJENDRA SHEAGAONKAR
VS
UNION OF INDIA AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Sachin Sambre, Advocate for the petitioner
Mr. M. K. Pathan, AGP for respondents 2 and 4

**CORAM : ROHIT B. DEO AND
Y.G. KHOBRAGADE, JJ.**

DATED : 09/01/2023

The prayer clauses of the petition read thus:-

(i) By issuance of suitable writ, order or direction to the Respondent No. 2 to release the Pension to the Petitioner in view of Succession certificate as she is legally wedded wife of the deceased i.e. Rajendra Shegaonkar.

(ii) Direct respondent no. 2 to release the provisional pension to the petitioner during pendency of the present case.

(iii) Any other relief as this Hon'ble Court may deem fit in the present fact and situation of the case."

2. The backdrop is the claim of the petitioner to be the legally wedded wife of Mr. Rajendra S/o Baburaoji Shegaonkar, who expired on 28.11.2020.

3. According to the petitioner, she and two children from wedlock, Mrunal and Amruta, are the only legal

heirs of the deceased Rajendra.

4. Rajendra was serving with Public Works Department (PWD). According to the petitioner, he was in live-in relationship with one H.T. who is not impleaded herein.

5. After the death of Rajendra, the petitioner approached the PWD which demanded succession certificate on the ground that in the Pension Form the name of H.T. was mentioned as wife.

6. The petitioner preferred an application for grant of succession certificate. H.T. was impleaded as party and she appeared in the matter and entered into an amicable settlement with the petitioner.

7. On the basis of the amicable arrangement, the learned Civil Judge allowed the application in terms of the following order, which reads thus:-

01. Application, Exh. 01, is allowed, in view of Consent Terms Exh.09.

02. Issue Succession certificate in favour of applicant nos. 01 to 03, in respect of debt and securities mentioned in application, Exh. 01, on payment of requisite Court fees.

03. Parties shall bear their own costs.”

8. The grievance of the petitioner is that although on the basis of the succession certificate, the PWD approved the claim in principle and forwarded the same to the Office of the Accountant General II - respondent 2, the

pension is not released.

9. We note the statement in the affidavit in response filed on behalf of respondent 2 the Office of the Accountant General – II that whatever action is required to be taken, is by the Executive Engineer, Public Works Division, Bhandara. The relevant portion of the affidavit is extracted below:-

“9. It is submitted that the relief sought by the petitioner falls within the purview of the Pension Sanctioning Authority i.e. Executive Engineer, Public Works Division, Bhandara. This respondent by a communication dated 01.03.2022 has requested the Pension Sanctioning Authority to review the matter and take appropriate action at their end and to intimate this respondent accordingly. It is submitted that this respondent cannot act on its own and whatever action is required to be taken has to be taken by the Executive Engineer, Public Works Division, Bhandara. It is only when the Pension Sanctioning Authority take any decision in accordance with the provisions of Maharashtra Civil Services (Pension), Rules 1982 and orders issued by the Government of Maharashtra from time to time that this respondent would be able to take any steps in the matter. At present this respondent had authorized the pension benefits on 25.03.2019, in the name of Smt. Harsha.”

10. Be that as it may, as of now, it is not even the case of the PWD that the petitioner is not entitled to pension. If there is any technical difficulty faced by the Accountant General – II, the same can be taken care by directing respondent 4 to approve the pension case and forward the

same to respondent 2, who shall issue an appropriate consequential order within fourteen days of the receipt of the pension case.

11. We are conscious that in the pension papers the deceased mentioned the name of H.T. as the nominee. It is well settled that nominee has no vested right to pension. The purpose of nomination is to discharge the employer from the liability if the payment is made to the nominee. The rightful claimant can always assert her claim to pension notwithstanding that some other person is nominated.

12. In this view of the matter, and considering that the nominee H.T. has entered into compromise and has accepted the claim of the petitioner to pension, we direct that notwithstanding the nomination, the petitioner be considered to be rightful claimant to pension.

13. We expect the Chief Engineer, PWD, Bhandara to forward the pension papers to respondent 2 within next seven days, which, as we have already directed, shall be processed and consequential order passed by respondent no. 2 within fourteen days from the receipt of the proposal from the PWD.

14. The petition is disposed of in the aforesaid terms.

**SANDIP
MAHADEV
GATE**

Personal Assistant to the
Hon'ble Judge
Digitally signed by
SANDIP MAHADEV GATE
Date: 2023.01.10
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(Y.G. KHOBRAGADE, J.)

(ROHIT B. DEO J.)