

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

WRIT PETITION NO.4474 OF 2022

Kamla Wd/o- Vasant Yenke
Age: 66 yrs, Occ. Housewife
r/o- Burak, Malampalli, Post-Aheri
District-Gadchiroli (M.S.) 442705. **PETITIONER**

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

1. Principal Accountant General (A & E) II,
Maharashtra Civil Lines, Nagpur
Tahsil & District-Nagpur.
2. Deputy Conservator of Forests
Sironcha Forest Department,
Sironcha Tahsil-Sironcha,
District- Gadchiroli. **RESPONDENTS**

Mr. J. J. Khangura, Advocate for Petitioner.
Mrs. Kalyani R. Deshpande, AGP for Respondents/State.

CORAM: **ROHIT B. DEO AND MRS. VRUSHALI V. JOSHI, JJ.**
DATE: **13th MARCH, 2023.**

ORAL JUDGMENT: (PER ROHIT B. DEO, J.)

Heard. Rule. Rule made returnable forthwith by
consent of the learned counsels for the parties.

2. The grievance in the petition is that the petitioner,
who is the widow of the deceased employee Mr. Vasant
Ramchandra Yenke is not receiving family pension.

3. Facts are broadly not disputed.

4. Mr. Vasant Yenke was serving as an Accountant on the establishment of the Forest Department at Sironcha, District Gadchiroli. He retired on 30.06.2001 and expired on 25.12.2019.

5. It is averred in the petition that Mr. Vasant Yenke had two wives. The other wife Smt. Leelabai however, predeceased Mr. Vasant Yenke and as on the death of the employee the petitioner was the surviving wife. It is further averred in the petition that the learned Judicial Magistrate First Class, Aheri rendered order dated 17.02.2020 in M.J.C. 25/2020 issuing Succession Certificate in favour of the petitioner herein and her two children from marriage with Mr. Vasant Yenke.

6. It is not the case of the respondent that at the time of the death of the employee there were two surviving wives. We note from the affidavit in response filed on behalf of the respondent 1, that pension is refused only on the ground that in the record available the nominee is late Smt. Leelabai.

7. We are not required to delve deeper. It is trite law that neither the official record nor the nomination therein is conclusively determinative of the entitlement to pension. In view

of the undisputed position on record that Smt. Leelabai died in 2016 much prior to the death of the employee Mr. Vasant Yenke in 2019, and the petitioner has been issued Succession Certificate, we see no difficulty in allowing the petition in terms of prayer clause (a) and (b) which read thus:

(a) That this Hon'ble Court be pleased to issue a writ of in the nature of mandamus to the respondent no.1 & 2 and direct them to provide the benefits of pension of the deceased Vasant Yenke.

(b) To direct the respondents 1 & 2 to pay the arrears of pension from the date of the deceased to the date of the disposal of this petition.

8. We further direct that the compliance shall be done within the next eight weeks, failing which the amount payable shall attract interest at the rate of 9% per annum.

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

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)