2023:BHC-NAG:12536-DB

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

WRIT PETITION NO. 3310/2022

Nilima Gajanan Waghmare Wd/O Late Gajanan Waghmare
Vs
Union Of India Thr. General Manager, Mumbai 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. C.L.Deharia, counsel for petitioner.
Mr. P.V. Navlani, counsel for respondent Nos.1 and 2.

CORAM: AVINASH G. GHAROTE & URMILA JOSHI-PHALKE, JJ
DATED : 22/08/2023.

1. Heard.

2. The petitioner has challenged the order of Central Administrative Tribunal, Mumbai Bench, Mumbai Camp at Nagpur (for short 'CAT') dated 28.3.2022 (Page-15) whereby the claim of the petitioner for family pension being a widowed daughter, on account of the demise of her father during employment has been rejected.

3. There is no dispute regarding the relationship of the petitioner with the deceased Gajanan Haribhau Waghmare. There is also no dispute regarding the fact that the petitioner is the widowed daughter and therefore, under the relevant Family Pension Scheme, the petitioner would be covered.

4. The only reason why the claim has been rejected as indicated by the perusal of the impugned

judgment is that the petitioner has given three different affidavits showing different incomes. (Para-9 Page. 20).

5. It is, however, material to note that Gajanan Haribhau Waghmare passed away on 10.1.2015. The income certificate submitted by the petitioner thereafter from the Financial Year 2015-2016 is of Rs.45,000/- which according to Mr. Navlani, learned counsel for the respondent Nos. 1 and 2 does not dis-entitle her from claiming the benefit of the Family Pension Scheme, as reflected from the communication dated 25.10.2018 (Page-68) as the upper limit for entitlement is more than Rs.45,000/- (Page-68).

6. The denial as reflected from the order of the CAT, is based upon the income certificates of the prior Financial Year 2011-2012 (Page-33) and Financial Year 2013-2014 (Page-34). Since Gajanan Haribhau Waghmare passed away on 10.1.2015, the question of considering the certificates for the earlier financial years did not arise at all.

7. Since the certificate for the financial year 2015-2016 indicated the satisfaction and the requirement of entitlement, as per the applicable family pension scheme the impugned order cannot be sustained and the same is quashed and set aside and it is held that the petitioner satisfies the income criteria for grant of the family pension scheme. The respondents are directed to initiate appropriate action in this regard

and commence the payment of the family pension to the petitioner within a period of four weeks, if she is otherwise eligible and entitled.

The petition is therefore allowed in the above terms. No order as to costs.

(URMILA JOSHI-PHALKE, J.) **(AVINASH G. GHAROTE, J.)**

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