

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

WRIT PETITION 2147 OF 2022

Lata Bhalchandra Sapkal,
Aged 61 years, Occ. Household,
R/o.Narsing Colony, Akot,
Tahsil Akot, District Akola

.....PETITIONER

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

1. Accountant General Indian Audit
and Account Department,
Office of the Accountant General
Pension Wing, Old building,
Post Box No. 114 GPG Civil Lines,
Nagpur District Nagpur

2. Senior Accounts Officer,
Indian Audit and Account Department
Office of the Accountant General
Pension Wing, Old Building
Post Box No. 114 GPG Civil Lines,
Nagpur, District Nagpur

3. Superintendent of Police,
Akola, District Akola.

4. Devendra Bhalchandra Sapkal,
Aged 35 years, Occ. Business,

5. Govind Bhalchandra Sapkal,
Age 33 years, Occ. Service,
Both r/o. Asra Colony, Akot,
Tahsil Akot, District Akola

6. Poonam vishal Ingle
(Before marriage Ku. Poonam
Bhalchandra Sapkal)
Age 34 years, Occ. Household,
r/o.Bramhan Vetel, Lonal,

Tahsil Lonar, District Buldhana

7. State of Maharashtra,
Through Superintendent of Police Akola.

..RESPONDENTS

Mr. V.B. Bhise, counsel for petitioner.
Mr. N.S. Deshpande, ASGI for respondents 1 & 2.
Mr. S.M. Ukey, Addl.GP for respondent 3 & 7/State.

CORAM:- ROHIT B. DEO & M.W. CHANDWANI, JJ.
DATE : 13.06.2023

JUDGMENT (Per: Rohit B. Deo, J.)

We allow the oral motion moved by learned counsel Mr. V.B. Bhise and permit the State of Maharashtra to be added as respondent 7.

2. Learned AGP Mr. S.M. Ukey, waives notice for respondent 7.

3. The amendment be carried out forthwith.

4. Heard.

5. The petitioner is assailing the communication dated 21.1.2021 issued by respondent 2 – Senior Accounts Officer, Indian Audit And Account Department refusing to

process the family pension case of the petitioner.

6. Perusal of the communication dated 21.1.2021 reveals that family pension is refused on the premise that the marriage of the petitioner with deceased employee Mr. Bhalchandra Sapkal was null and void. This is on the assumption that in the pension papers forwarded, the date of the petitioner's marriage with Mr. Bhalchandra Sapkal is shown as 31.3.1990 and the first wife of Mr. Bhalchandra Sapkal expired on 24.3.1999. The communication impugned further directs that the date of marriage of Ms. Poonam, who is the daughter of Mr. Bhalchandra Sapkal be furnished and since the children of the first wife were entitled to family pension being minor, modified proposal for death gratuity and family pension be submitted.

7. In the present petition, we are only concerned with the assumption of the respondent 2 that the marriage between petitioner Mrs. Lata and Mr. Bhalchandra is null and void.

8. Mr. Bhalchandra Sapkal was serving on the establishment of respondent 3 as Assistant Sub-Inspector and he admittedly expired on 8.7.2009. The petitioner applied for succession certificate under Section 372 of the Indian Succession Act which was refused by the trial Court. However, in Regular Civil Appeal 35/2021 preferred by the petitioner, the learned Appellate Judge recorded a finding that the date 31.3.1990 could be a mistake and upheld the contention of the petitioner that the marriage as a fact was solemnized on 31.3.2007. The judgment of the appellate Court was carried in Civil Revision Application 48/2016 which the High Court decided on 10.7.2017. The High Court upheld the findings of the learned appellate Judge.

9. Considering the judicial determination, the matter will have to be remanded to respondent 3 for taking an appropriate decision on the family pension proposal submitted by the petitioner. We direct respondent 3 to resubmit the proposal of the petitioner for family pension to

respondent 7 within the next 2 weeks and respondent 2 is further directed to take appropriate decision on such proposal within three weeks from the date of receipt. The proposal shall not be rejected or returned on the ground that the marriage of the petitioner with Mr. Bhalchandra Sapkal is illegal or null and void.

10. Petition is disposed of in the aforestated terms.

(M.W. Chandwani, J.)

(Rohit B. Deo, J.)

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