

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

WRIT PETITION NO. 7107 OF 2016

Vijay Ramchandra Kshirsagar
Aged 58 years, Occ. Service,
R/o. 35, Swami Samarth Nagar,
Pipla Road, Besa, Nagpur.
(Dead through Lrs.)

- 1 Mrs. Meena wd/o Vijay
Kshirsagar (wife)
Aged – 52 years, Occ. Nil,
R/o. 35, Vakratund Swami
Samarth Nagri, Besa, Pipla Road,
Besa, Nagpur.
- 2 Piyush s/o Vijay Kshirsagar (son)
Aged – 27 years, Occ. Students,
R/o. 35, Vakratund Swami
Samarth Nagri, Besa, Pipla Road,
Besa, Nagpur.
- 3 Chetna w/o Chandrashekhar
Devere (daughter) (married)
Aged – 31 years, Occ. Housewife,
R/o.35, Vakratund Swami
Samarth Nagri, Besa, Pipla Road,
Besa, Nagpur.

Petitioners

-Vs.-

1. The Union of India, Ministry of
Communications and
Information Technology, Through
its Secretary, Dak Bhawan Sansad
Marg, New Delhi.

2. The Director of Accounts (Postal), Civil Lines, Nagpur – 440 001.
3. Scheduled Tribe Caste Scrutiny Committee, Nagpur Division, Nagpur, Through its Member Secretary.

Respondents

Mr.Ramaswamy Sundaram, counsel for the petitioners.
Ms.Mugdha Chandurkar counsel for respondents 1 and 2.

**CORAM:ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 18th APRIL, 2023

O R A L J U D G M E N T (Per :Rohit B. Deo, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. This writ petition has a chequered history.

4. Mr.Vijay Ramchandra Kshirsagar is the petitioner who assailed the invalidation of the caste claim by the Scrutiny Committee.

5. The High Court allowed the petition partly in view of the judgment of the Full Bench in **Arun Vishwanath Sonone Vs. State of Maharashtra and others.**[2015(1) Mh.L.J.457] and protected the services of the petitioner.

6. The decision of the High Court was carried to the Apex Court which noted that the Full Bench decision in Arun Sonone (supra) is set aside by the Apex Court, and that the protection order is entirely based on the Full Bench decision which is set aside, and remitted the matter for de-novo consideration.

7. During the pendency of the petition, Mr.Vijay Kshirsagar unfortunately expired and the legal heirs, who have come on record are restricting the claim to the family pension and gratuity.

8. Respondent 1 and 2 have filed affidavit-in-response dated 11.04.2023.

9. We may extract paragraph 3 of the affidavit-in-response which reads thus:

“3. It may be noted that the Petitioner who are the legal heir of the deceased have now by virtue of Amendment to the petition has challenged the Order dated 26.10.2016 with other additional prayers. During the pendency of the present Petition the deceased Petitioner was paid Rs.35,000/- plus Dearness Relief per month as provisional pension till August-2022 before his unfortunate demise. It may be noted the Department has already released the following payments in favour of the Petitioner at the time of his retirement.

Sr.No.	Particulars	Amount
1.	GPF	Rs. 88,948/-
2.	Leave Encashment	Rs. 7,78,773 + Rs.34,767/-
3.	CGEGIS	Rs.64,957/-

10. The next relevant averment is in paragraph no.5 which may reproduce verbatim :-

“5. In view of the present Petition and the provisions of Rule 8(4) of the CCS Pension Rule, 2021, as the Judicial Proceedings is pending the amount of DCRG and family pension is not being released to the Petitioner”.

11. Considering that Mr.Vijay Kshirsagar has expired, it would not be necessary to delve deeper in the merits of the findings recorded by the Scrutiny Committee,. We note that even according to respondents 1 and 2 the GPF, leave encashment and CGEGIS amount is already released in favour of Mr.Vijay Kshirsagar. In this view of the matter, we do not see any impediment in directing that the legal heirs shall be entitled to the amount of gratuity which may be pending.

12. Insofar as family pension is concerned, we have not come across any rebuttal in the counter affidavit to the claim for family pension. All that is said is that in view of the pending proceedings, the family pension is not paid.

13. We, therefore, direct the petitioner to withdraw this writ petition. Learned counsel appearing for the petitioner seeks leave to withdraw the writ petition and the petition is disposed of as withdrawn.

14. We further direct the respondents 1 and 2 to release the amount of gratuity payable to the legal heirs within the next six weeks and to pay the arrears of the family pension to the legal heirs within the said period. Needless to observe, the regular family pension shall be paid to the legal heirs as expeditiously as possible in accordance with the extant rules.

15. At the request of learned counsel for respondents 1 and 2, we clarify that the time line supra shall be triggered after the legal heirs complete the necessary formalities, if there be any.

(MRS.VRUSHALI V. JOSHI, J)

(ROHIT B. DEO)