



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6744 OF 2022

Smt. Madhuri W/o Late Sanjay Bhagwan Saindane,
Age : 40 years, Occupation : Household,
R/o Hingone (Bk.), Tq.Dharangaon,
Dist. Jalgaon.

...PETITIONER

-VERSUS-

1. The State of Maharashtra.
General Administration Department,
Mantralaya, Mumbai-32.
Through its Secretary.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar.
Through its Member Secretary.
3. The Chief Executive Officer,
Zilla Parishad, Nashik,
Dist. Nashik.
4. The Panchayat Samiti,
Chandwad, Tq.Chandwad,
Dist. Nashik.
Through its Block Development Officer.

...RESPONDENTS

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Shri B.S. Deshmukh, Advocate for the Petitioner.
Shri S.K. Tambe, AGP for Respondent Nos.1 and 2/State.
Shri V.C. Patil i/by Shri U.B. Bondar, Advocates for Respondent
Nos.3 and 4.

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**CORAM : RAVINDRA V. GHUGE
&
R.M. JOSHI, JJ.**

DATE :- 13th March, 2024

ORAL JUDGMENT (Per Ravindra V. Ghuge, J.):-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner is a widow, who has put forth prayer clauses A, B and C as under:-

- “A) *Issue Writ of mandamus and or appropriate Writ or order in the like nature thereby direct the respondent no. 3 and 4 to release the all pensionary benefits to the petitioner and other legal heirs of Late Shri. Sanjay Bhagwan Saindane on account of his death.*
- B) *By an appropriate Writ or Direction in like nature respondent no. 3 may be directed to consider the application dt. 20/12/19 for getting compassionate appointment to the son of petitioner namely Laves, after attaining age of maturity.*
- C) *Pending hearing and final disposal of present Writ Petition respondent no. 3 and 4 may kindly be directed for disbursement of interim pension to the petitioner and the other legal heirs of deceased Sanjay Bhagwan Saindane.”*

3. The learned Advocate for the Petitioner submits, on instructions, that the Petitioner has decided not to press prayer clause B and the said prayer clause B is deemed to be deleted from the proceeding. She is now pressing only for retiral benefits.

4. We have perused the communication by the Block Development Officer, Panchayat Samiti, Chandwad, dated 11.02.2022, addressed to the competent Committee thereby, informing that the widow is awaiting release of retiral and pensionary benefits. Since the appointment of her deceased husband Sanjay, as Gramsevak, was from the Scheduled Tribe category and since he has secured employment on the basis of the reservation, the validity certificate would be necessary. He, therefore, requested that the Committee should proceed with the pending claim for validation tendered by the deceased employee and deliver an order.

5. We are informed that one year prior to the said communication, the Committee had already passed an order on 10.02.2021 and noting the death of the claimant, has closed the validation proceedings. The statement is made by the Petitioner that after the communication dated 11.02.2022, the Committee has not dealt with the claim of the deceased employee.

6. The Petitioner relies upon the judgment dated 12.10.2010 delivered by this Court at Aurangabad in Writ Petition No.3718/1994 filed by ***Prakash Fulchand Barwal and***

others vs. The State of Maharashtra and others, wherein, this

Court has concluded in paragraphs 4 to 6 as under:-

- “4] During pendency of the writ petition, the original petitioner has died and his legal heirs are brought on record. Since the original petitioner has already died, the question regarding his claim of belonging to scheduled tribe does not arise. The legal heirs of the original petitioner have restricted the claim in the present petition only for grant of family pension.
- 5] The petitioner was originally appointed on 18.7.1988. By virtue of interim order passed in the year 1994, the petitioner was directed to be reinstated. The original petitioner has died on 5.12.2003. Considering the date of appointment of the original petitioner to be 11/18.7.1988, the original petitioner has rendered the service of more than 15 years. As such the petitioner's widow would be entitled to the family pension. We accordingly extend the benefit of family pension to the widow of the original petitioner i.e. present petitioner no.1- Smt. Shobhabai w/o Prakash Barwal.
- 6] We, therefore, dispose of the writ petition by directing the respondents to give the benefits of family pension to the widow of the original petitioner from the date of his death i.e. 5.12.2003. The said benefit be extended to the widow of the petitioner namely Smt.Shobhabai w/o Prakash Barwal within a period of six months from today along with the arrears. No order as to costs.”

7. The Petitioner has also relied upon the judgment delivered by this Court dated 20.07.2021, in Writ Petition No.6485/2020 filed by **Sunita w/o Late Pradip Thakar vs. The State of Maharashtra and others**.

8. In view of the above, **this Writ Petition is allowed in terms of prayer clause A.**

9. Needless to state, compliance of this order shall be made within a period of 90 days from today. Regular pension to the widow shall be commenced accordingly.

10. At this juncture, the learned Advocate for the Petitioner submits that if the son of the Petitioner succeeds in getting a validity certificate anytime in future, he would apply for compassionate appointment.

11. We would not express any view about the said statement, at this stage. Nevertheless, such a candidate would be covered by the law laid down by the Full Bench of this Court in the matter of ***Om Bhagwanrao Anjanwad vs. State of Maharashtra and others, 2022 (4) Mh.L.J. 723 : AIR 2022 (5) Bom R 817.***

12. Rule is made absolute in the above terms.