



(1)

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

WRIT PETITION NO. 7715 OF 2024

**CHANDRAKALA WAMANRAO AUTE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS**

....

Mr S. D. Jayabhar, Advocate h/f Mr D. R. Jayabhar, Advocate for
Petitioner

Ms Neha Kamble, A.G.P. for Respondent No.1

Mr P. D. Suryawanshi, Advocate for Respondent Nos.2 to 5

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 30th July, 2024

PER COURT:

1. The Petitioner is admittedly a second wife, who had relationship with the deceased Wamanrao Aute during the marriage with the first wife Bhartibai. Wamanrao died on 06/05/1988. Bhartibai started receiving 50% pension and the Petitioner was also receiving 50% pension. Bhartibai died on 12/01/2016.

(2)

2. The second wife Chandrakala moved Writ Petition No.2374/2017 before this Court, seeking 100% pension. This Court [Coram : S. V. Gangapurwala, J. (as His Lordship then was) and A. M. Dhavale, J.], passed order on 05/03/2018, raising an issue, as to whether the second wife would be entitled for family pension. The Petition was kept pending since the reference to the Larger Bench in **Kamalbai w/o Venkatrao Nipanikar and others Vs. State of Maharashtra and others**, was pending adjudication.

3. By the judgment dated 31/01/2019, the issue referred to the Full Bench, was decided. Thereafter, Writ Petition No.2374/2017 came up before this Court [Coram : S. V. Gangapurwala, J. (as His Lordship then was) and R. N. Laddha, J.] and the Writ Petition was dismissed as withdrawn vide the order dated 22/11/2021.

4. Despite the above position, the Petitioner has preferred this Writ Petition in the same cause, with a statement in paragraph 10 of the Petition paper book that, no other Petition or proceeding has been filed or initiated for the same subject. In

(3)

paragraph No.13 of the Petition paper book, it is stated that there is no other efficacious or alternative remedy available for the Petitioner. In paragraph No.5 of the Petition paper book, it is stated that the Petitioner had filed a Petition earlier with a prayer to release the entire pension.

5. In view of the above, we could have dismissed this Writ Petition with exemplary costs, and more so, in the light of law laid down in **Kamalbai Venkatrao Nipanikar (supra)**, that a second wife is not a legally wedded wife and is not entitled for the pension. However, since the Petitioner is a widow and the learned Advocate for the Petitioner urges us to show sympathy, that we are not imposing costs.

6. **This Writ Petition is dismissed.**

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk