



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5380 OF 2017

Smt. Shantabai Ramchandra Chaudhari,
Age-65 Years, Occupation – Nil,
R/o – C/o Shri. Balwant Ramchandra
Chaudhari, Mahajan Wada, Malegaon
Road, Nandgaon, Tal. Nandgaon,
Dist. Nashik

...Petitioner

Versus

1. The General Manager,
Central Railway, General Manager
Office, Chatrapati Shivaji Terminus,
Mumbai.
2. The Divisional Railway Manager (Personal)
Settlement Central Railway,
D.R.M. Office, Bhusawal,
Dist. Jalgaon.
3. The Branch Manager,
State Bank of India, Branch Nandgaon,
Tal. Nandgaon, Dist. Nashik
4. The Branch Manager,
Central Pension Processing Centre,
State Bank of India, 5th Floor,
CBD Belapur, Washi, Mumbai 600614 ...Respondents

...

Mr. M. M. Bhokarikar, Advocate for the Petitioner
Mr. M. N. Navandar, Advocate for the Respondent Nos.1 &
2
Mrs. S. D. Tambat, Advocate for Respondent Nos. 3 and 4

...

CORAM	: RAVINDRA V. GHUGE & R. M. JOSHI, JJ
DATE	: APRIL 18, 2024

JUDGMENT (PER R. M. JOSHI, J)

1. **Rule.** Rule made returnable forthwith. By consent of both sides, heard finally.

2. Petitioner is widow of Ramchandra Vitthal Chaudhari (for short '**deceased**'), an employee with Railways as E. P. Driver in engineering department. Deceased superannuated from service with effect from 31.07.1994 and thereafter received pensionary benefits regularly till his death on 27.07.2007. He was receiving his pension from State Bank of India, Branch Nandgaon. After death of deceased, Petitioner started getting pension under account no. 11550398965 till January, 2015 in the capacity of legally wedded wife of deceased. On 17.12.2013, State Bank of India, Nandgaon Branch, issued a memo to the Petitioner stating that her family pension has not been sanctioned as per the corrigendum PPO, CR/10318/115462 dated 17.12.2013 received from Central Railway. Thus, her pension was stopped from September, 2014 without assigning any reason therefor.

3. Petitioner has specifically pleaded that after

death of first wife of deceased, Petitioner married him as per the Hindu rituals and as per the tradition, she was named as Shantabai i.e., name of deceased's first wife. She had accordingly changed her name in the Government Gazette in April, 2015. Petitioner claims that in almost all documents she is shown as wife of deceased and that there is no reason or justification for the authorities to deny family pension to her. Petitioner has entered into correspondence with the Respondent Railway authorities but in vain. Hence, this Petition.

4. Learned Counsel for the Petitioner by relying upon the documents placed on record submits that there are ample documents on record to indicate that the Petitioner being wife of the deceased employee has received other benefits and that she is possessing the document pertaining to deceased indicating their marriage. Thus, according to him, Railway Authorities are not justified in denying the pensionary benefits to the Petitioner.

5. This contention is opposed by the learned

Counsels for Respondents. Learned Counsel for Respondent Nos. 1 and 2 relied upon the affidavit-in-reply filed by Dr. Tushaba Shinde, Senior Divisional Personnel Officer, Central Railway, Bhusawal, Dist. Jalgaon contending that as per the record of the railways, Petitioner's name is not appearing therein as wife of deceased employee and in fact record shows that deceased employee had no family. He has sought dismissal of the Petition on the ground of alternate remedy before Central Administrative Tribunal.

6. There are peculiar facts and circumstances in the present case, such as, Petitioner after death of deceased has received pension from July, 2007 till December, 2013 that is for around five years. She has documentary evidence in the form of bank record of deceased, railway pass issued by the Authorities as member of family of deceased employee. Her own bank passbook indicates her identity. Thus, there is more than sufficient material in order to show that the Petitioner has received benefits as member of family of deceased employee for all these years. Petitioner is illiterate lady aged now about 70 years. In such

circumstances, it would be unjust to call upon her to produce any documentary evidence with regard to her marriage. One railway pass issued to the Petitioner shows name of the Petitioner as Sau. Shantabai Ramchandra Chaudhari with her photograph thereon with the photograph of deceased himself. This document conclusively shows about Petitioner being wife of deceased. The genuineness of documents placed on record by the Petitioner are not disputed and unless she is wife/family member of the deceased employee, she could not have got possession of these documents. In such circumstances, Petitioner has substantiated her contention of being wife of deceased and to be entitled for family pension.

7. As far as the contention of Respondents about alternate remedy is concerned, having regard to the peculiarity of the facts of the case and considering the fact that the Petitioner was already granted family pension benefits and since the said benefits are abruptly, without reason or justification were discontinued, we do not wish to accept the contention of the Respondents to relegate the Petitioner to

Tribunal for availing alternate remedy.

8. In view of the above, this Petition is allowed in terms of prayer clause 'b'. Petitioner be paid family pension along with arrears within period of 90 days from date of this judgment.

9. Rule is made absolute in above terms.

(R. M. JOSHI, J)

(RAVINDRA V. GHUGE, J)

Malani