

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

WRIT PETITION NO.976 OF 2023

Smt. Kamal Ramchandra Nikajoo

..vs..

The Chief Executive Officer, Z.P., Nagpur and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.P. Kshirsagar, Advocate for the petitioner.
Shri R.K. Raulkar, Advocate for the respondent nos. 1 to 4.
Shri P.K. Bezalwar, Advocate for respondent no.5.
Ms Sapkal, A.G.P. for the State.

CORAM: VINAY JOSHI AND SANJAY A. DESHMUKH, JJ.
DATED : 24/07/2024.

Heard.

2. The petitioner a widow aged 74 years, has invoked writ jurisdiction of this Court seeking directions to the employer that family pension/pensionary benefits shall be disbursed to her in exclusion of respondent no.5, who is the second wife of deceased Ramchandra.

3. It is not in dispute that the petitioner is the legally wedded wife of deceased Ramchandra, who died in the year 2019. Within short span of marriage, the relations were strained, hence from the year 1965, the petitioner started to reside separately. In proximity, deceased Ramchandra got married with respondent no.5 Radhabai and lived with her till death i.e. near-about 50 years as a husband and wife. The deceased has also nominated respondent no.5 (second wife Radhabai) as a nominee to receive pensionary benefits. In pursuance of that, the employer has disbursed the pensionary benefits to respondent no. 5 and also started to disburse family

pension to respondent no. 5. Since the petitioner is a legally wedded wife has raised a grievance to the employer as to stop the disbursement of payment of family pension. In the wake of such a position, this petition has been filed.

4. The rival parties i.e. the petitioner Kamal and respondent no. 5 Radhabai have settled differences out of the Court. It is a fact that though respondent no. 5 was not legally wedded wife, however she lived with the deceased as a wife for near-about 50 years. As against this, the petitioner legally wedded wife, lived with the deceased for initial 6 to 7 years only. Having regard to these aspects, the parties have decided that the petitioner would receive 70% of family pension whilst respondent no.5, who is also in her seventies, would receive 30% of family pension. Both parties are nearing 75 years of age, and thus, the settlement being the prudent course for their survival, we deem it appropriate to accept the same.

5. It is informed that till date family pension for four months was disbursed to respondent no. 5, which she undertakes to adjust. Both sides have agreed before the Court that the said adjustment would be made out of the Court. Today, the petitioner Kamal and respondent no.5 Radhabai are present before the Court to whom the terms of settlement have been explained. The parties before us are identified by their respective Counsel. They have agreed the terms of settlement, in particular proportion in which the family pension is to be received by each one. It is a peculiar case that, legally wedded

wife lived with the deceased for 6 to 7 years whilst second wife lived with the deceased for 50 years. Both wives are nearing 75 years of age and for their survival we accept the settlement made by the parties out of the Court.

6. In view of that, we direct respondent nos.2 and 3 Employer to disburse 70% of family pension to the petitioner Smt. Kamal Nikajoo and 30% to respondent no.5 Radhabai. In case of death of either of party, the entire pensionary benefits shall be disbursed to the remaining spouse.

7. The arrears of pension shall also be disbursed in proportion, which is decided by this Court as above.

8. The petition stands disposed of accordingly.

(SANJAY A. DESHMUKH, J.)

(VINAY JOSHI, J.)

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