



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

WRIT PETITION NO.1832 OF 2024

Naseem Bano wd/o Abdul Razzaq,
Aged about 55 years,
Occupation-Nil,
R/o. Near Bansod Store, Parvati Nagar,
Nagpur.

.. Petitioner

.. Versus ..

1. The Union of India,
Through General Manager,
Central Railway, Mumbai CST-400 001.

2. Divisional Railway Manager,
Central Railway, Nagpur Division,
Railway Station Road, Kingsway,
Nagpur.

.. Respondents

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Shri S.S. Sharma, Advocate with Mr. M.S. Sharma, Advocate for the
Petitioner.
Shri C.J. Dhumne, Advocate for the Respondents.
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CORAM : SMT. M.S. JAWALKAR AND
PRAVIN S. PATIL, JJ.
DATED : 18th JUNE, 2025.

JUDGMENT [Per : Pravin S. Patil, J.]

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1. **Rule.** Rule made returnable forthwith. By consent of
the learned Counsel for the parties, the matter is taken up for
final disposal.

2. The petitioner, by way of present petition, is challenging the impugned communication issued by respondent no.2, whereby the petitioner is asked to file a declaratory suit for releasing her pensionary benefits as a legal heir of deceased Husband.

3. In the present petition, it is admitted fact that the husband of petitioner was working with the respondent no.2 as Electric Technician in Motor Technician Department with the Central Railway. During the course of employment, he was expired on 09.02.2016. After the death of her husband, she approached to the respondents for releasing the pensionary benefits in terms of the Family Pension. On the request of the petitioner to release the pensionary benefits, respondent no.2 initially issued the communication dated 09.08.2016 asking thereby the petitioner to obtain the succession certificate from the competent court of law to make her entitled for the benefits. It was further informed that the deceased was having a Ex-wife namely Salma Begum and, therefore, the petitioner should implead her as well as Department as a necessary party to avoid

further complications in the matter.

4. Petitioner accordingly on 25.03.2019 filed application for grant of succession certificate before the Civil Judge, Senior Division, Nagpur. The learned Civil Court, by the judgment dated 25.01.2023, by considering the entitlement of the petitioner as a sole legal heir of the deceased by recording cogent reasons, issued succession certificate in the name of the petitioner to receive the service benefits lying in the name of deceased Abdul Razzaq.

5. Petitioner accordingly produced the succession certificate before the respondent no.2 office. However, respondent no.2, by the impugned communication dated 23.10.2023 asked the petitioner to file a declaratory suit in addition to the succession certificate to release pensionary benefits. Hence, the petitioner approached before this Court to challenge the impugned communication dated 23.10.2023 in the background of the above factual position.

6. The respondents appeared in the matter and opposed

the petition. It is the submission of the respondents that in the succession certificate, it is only mentioned that the petitioner is entitled to receive service benefits and funds of Rs.10,07,769/- and, therefore, to that extent only, succession certificate would be applicable and hence the direction issued by the impugned communication is justified.

7. We have heard both the learned counsel at length and perused the record.

8. It is admitted fact in the matter that the marriage of the deceased with Salma Begum was dissolved on 13.06.2006. Thereafter, Salma Begum on 06.07.2006 filed application for grant of maintenance for iddat period before learned Judicial Magistrate, First Class, Barshitakli, District – Akola. The proceeding was decided by judgment and order dated 16.06.2008. There is categorical findings recorded by the Court that there was a divorce between Salma Begum and deceased Abdul Razzaq and accordingly granted maintenance of Rs.10,000/- per month till her iddat period. As such, it is clear that the marriage with Salma Begum of deceased was dissolved

and there is no other legal heir than the present petitioner.

9. It is further pertinent to note that the succession certificate is granted by the competent civil court by granting hearing opportunity and by recording evidence of the parties. The succession certificate is the sufficient proof to hold that the present petitioner is the only legal heir of the deceased. In view of above, we are of the considered opinion that the impugned communication issued by the respondent no.2 to the petitioner to file declaratory suit, though the succession certificate is in existence, is unnecessary and unjustified in the facts and circumstances of the matter.

10. It is further clear from the record that the first wife of the deceased, who was a party to the succession certificate proceeding, till date, did not challenge the same before any competent court of law. As such, the succession certificate issued by the Civil Judge, Senior Division, Nagpur dated 25.01.2023 attained the finality in the matter. Hence, we do not think in the facts and circumstances of the case that there is any further need of any declaration from the Civil Court to get

release the pensionary benefits.

11. Hence, for the aforesaid reasons, the petition is allowed. The respondents are hereby directed to release the settlement amount and pensionary benefits in favour of the petitioner within a period of three months from the date of production of this order.

12. Any delay after a period of three months will carry interest at the rate of 8% from the date of submission of Succession Certificate by petitioner to the respondent no.2 office till the date of actual receipt of benefits to the petitioner.

13. Rule is made absolute in the above terms.

(Pravin S. Patil, J.)

(Smt. M.S. Jawalkar, J.)