



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO 4878 OF 2023

(Niranjana wd/o Gajanan Bhalerao and anr Vs. Dr. Panjabrao Deshmukh Krushi Vidyapith, Akola and
ors)

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

Court's or Judge's orders

Mr. Kapil Deshmukh, Advocate for petitioners.
Mr. A.R. Deshpande, Advocate for respondent Nos. 1 and 2.
Mr. N.R. Patil, AGP for respondent No. 3.

CORAM : ANIL S. KILOR & RAJNISH R. VYAS, JJ.

DATED : 03-09-2025.

(P.C.)

Heard.

2. This petition is for direction to the respondents to release the benefits of family pension including its arrears to petitioner 1 being widow and petitioner 2 as son of Gajanan Bhalerao.

3. The respondent University is not disputing the relation of petitioner 1 as a widow of Gajanan and petitioner No. 2 as son of Gajanan. The Succession Certificate filed on record issued by learned 4th Jt. Civil Judge, (Sr. Divn.), Akola supports the case of the petitioners that they are the legal heirs of deceased Gajanan.

4. In the above referred backdrop, the only objection raised by the respondents is that the sons and daughter of first wife of Gajanan made representation/application to the University claiming

all the benefits accrued on death of deceased Gajanan. It is pointed out that in said application, there is specific a mention that they are the only relatives and there are no other relatives and if any person makes an application claiming any benefit, the same shall be decided after hearing them.

5. In the above backdrop, we perused the record and it is evident from the record that deceased Gajanan was in service of the respondent University and he died in the year 2021. His service book shows Sau Bebibai as his wife, Suraj and Manoj as sons and Ku. Ashwini as daughter. The date of birth of Suraj is 14.02.1989 and of Manoj 28.07.1990. Whereas, date of birth of Ku. Ashwini is 03.11.1992. Thus, considering the date of birth of sons and daughter of Gajanan, it is evident that on the date of death of Gajanan, both the sons were above 21 years of age and the daughter was married.

6. As per Rule 115(5) and 116(5) of Maharashtra Civil Services Pension Rules, 1982, family includes son below age of 21 years and the daughter who is not married and who is below the age of 24.

7. Thus Suraj, Manoj and Ashwini do not claim family pension as they do not fall under the definition of family as defined under the above referred Rules.

8. Furthermore, it is to be noted that in proceeding for Succession Certificate, Suraj, Manoj and Ashiwini were party and it appears from Succession Certificate that no objection was raised to issuance of Succession Certificate in favour of the petitioners.

9. It further shows that the petitioners gave sufficient proof to satisfy the Court as regards their rights to be formally recognized as a legal heirs of deceased Gajanan Sitaram Bhalerao. Accordingly, Succession Certificate was issued on 21.10.2021 by the learned 3rd Joint Civil Judge (Jr.Divn), Akola.

10. In view of the above referred observations, the objection raised by the respondents that the other legal heirs namely Suraj, Manoj and Ku. Ashwini are claiming right in the family pension cannot be accepted.

In that view of the matter, we are of the opinion that the petition needs to be allowed and the respondents are to be directed to release the family pension in favour of the petitioners, if there is no other legal impediments in releasing such family pension.

11. The petition is disposed of in the above terms.

(RAJNISH R. VYAS, J)

(ANIL S. KILOR, J)