



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

WRIT PETITION NO. 5307 OF 2024

Kaushalyabai Wd/o. Motilal Uchade,
Aged about 75 years,
Occ. Housewife,
R/o. Vasant Nagar, Pusad,
Tah. Pusad, Dist. Yavatmal.

....PETITIONER

...VERSUS...

1) The State of Maharashtra,
Through Secretary, Revenue & Forest
Department, Mantralaya,
Mumbai - 32.

2) The Deputy Conservator of Forest,
Pusad Forest Division, Pusad,
Dist. Yavatmal.

3) The Principal Accountant General
(A& E) - II, Maharashtra, Civil
Lines, Nagpur

...RESPONDENTS

Shri V.N.Patre, Advocate for petitioner.
Shri M.K.Pathan, AGP for respondents/State.

CORAM : SMT. M.S. JAWALKAR AND
PRAVIN S. PATIL, JJ.

DATE : 11/07/2025

JUDGMENT (PER : SMT. M.S. JAWALKAR, J.)

Heard learned counsel for both the parties.

2. The present petition is filed challenging the order dated 06/03/2024 passed by the learned Maharashtra Administrative Tribunal (MAT), Nagpur in Original Application (OA) No. 982/2021.

3. The claim of the petitioner is that, she is second wife of Motilal who served as Forester and retired on 31/03/1998. Their marriage was performed on 05/04/1972. Tulsabai who was first wife of Motilal died on 09/09/2005. Motilal had nominated both his wives to receive Death-cum-Retirement Gratuity. Motilal died on 15/01/2021. After his death, the applicant (the petitioner herein) applied for grant of family pension by application dated 10/02/2021. The respondent no. 3 rejected the claim of the applicant by impugned communication dated 06/09/2021. It was the

contention of the respondent(s) that, the applicant who is admittedly second wife of Motilal cannot be said to be his legally wedded wife and hence, notwithstanding the facts that she was one of the nominees and is the sole surviving wife, family pension cannot be granted to her. The learned MAT dismissed the O.A. only on the basis of Full Bench Judgment of this Court in *Kamalbai Venkatrao Nipanikar V/s. State of Maharashtra & Ors. {2019 (3) Mh.L.J. 921}*, wherein it is held that, for woman to be widow, she has to be legally married woman as per the law applicable to the parties, however, learned MAT has not adjudicated, whether the applicant was legally wedded wife of deceased Motilal.

4. The applicant has placed on record the Marriage Registration Certificate at page 18 wherein it is mentioned that, the marriage of the applicant performed with Motilal on 05/04/1972 at Aadgaon. If the documents in relation to service record of Motilal is noted, she was also nominated along with Tulsabai who expired in the year 2005. It appears

that the applicant was residing with Motilal since 1972. As such, the status of the applicant as a legally wedded wife ought to be decided in the matter.

5. The learned counsel for the petitioner has also placed on record **the order (citation) dated 26/07/2024** passed in *Special Leave Petition (C)/Diary No. 2365/2022 (Radha Devi V/s. Chief General Manager and ors.)*, wherein it is observed that, “Jay Narayan Maharaj and Radha Devi had lived and cared for each other, post the death of Ram Sawari Devi @ Sawari Devi on 20.04.1984. Radha Devi at the old age should not be denied the ‘status of spouse’, which entitles her to receive family pension. This would help her live with dignity and help her financially.”

6. In view thereof, the learned MAT is required to consider this citation while deciding the status of the applicant having a legally wedded wife. As such, we proceed to pass the following order:-

ORDER

- i) The Writ Petition is **partly allowed**.
- ii) The impugned order dated 06/03/2024 passed by the learned Maharashtra Administrative Tribunal (MAT), Nagpur in Original Application (OA) No. 982/2021 is hereby quashed and set aside.
- iii) The matter is remitted back to the learned MAT for deciding afresh the status of the applicant as a legally wedded wife.
- iv) The learned MAT is hereby directed to decide the matter as early as possible preferably within a period of three months.
- v) Accordingly, the petition stands **disposed of**.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)