



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

WRIT PETITION NO. 6494 OF 2024

Kaustubh Sudhakar Nandardhane, thr. Legal Guardian
Aniket Sudhakar Nandardhane

-Vs.-

State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's Orders.
or directions and Registrar's orders.

Mr.A.R.Fule, Adv. for the petitioner.
Mr.A.M.Kadukar, AGP for the respondents-State.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATE : 20TH JANUARY, 2025

Heard the learned counsel for the parties.

2. The claim is by the petitioner for grant of pension payable to the deceased Sudhakar Nandardhane, who was serving as an Assistant Teacher at Nevjabhai Hitkarne Kanya Vidyalaya, Bramhapuri, District Chandarpur, who attained superannuation on 28/02/2009, passed away on 03/09/2011, consequent to which his widow Mrs.Kalpana was receiving the pension. She also passed away on 24/11/2018, leaving behind the petitioner as the one of the legal heir. It is contended that the petitioner-Kaustubh Sudhakar Nandardhane though major is a person suffering from mental disability, which has been certified as such, in terms of the mandate of Rule 116(5)(ii) proviso of the Maharashtra Civil Services (Pension) Rules (for short "MCS

Rules”), he would be entitled to the family pension for the duration of disability. It is therefore contended, that the rejection of the claim of the petitioner on the ground, that there should be a permanent certificate in favour of the petitioner is incorrect as is reflected from the communication dated 23/07/2024 (Pg.45). Mr.Fule, learned counsel for the petitioner also relies upon the notification dated 12/03/2024 issued by the Ministry of Social Justice and Empowerment (Pg.57) which defines the mental illness and the GR dated 13/09/2022 issued by the State specifically clause 8 (Pg.63) to contend that the requirement of the permanent certificate is not correct.

3. Learned AGP does not dispute the GR dated 13/09/2022. He, however contends, that since the mental illness is temporary in nature, the same cannot be accepted for the purpose of grant of family pension to the petitioner

4. It is not disputed that the father namely Sudhakar Nandardhane was working as an Assistant Teacher with the Nevjabai Hitkarni Kanya Vidyalaya, Bramhapuri which was an aided school controlled by the respondent No.2, and had been granted pension till his lifetime and after his demise, on 03/09/2011, the same was granted to his widow Smt.Kalpana. The question is whether after the expiry of Smt.Kalpana on 24/11/2018, the petitioner would be entitled for grant of pensionary benefits.

5. The disability certificate issued by the Medical Authority, Chandrapur on 22/08/2022, (Pg.30) certifying

petitioner Kaustubh is a case of mental illness on account of his suffering from chronic schizophrenia and therefore certifying 70% temporary disability, which certificate is valid till 22/08/2027, is not disputed. What is disputed, is that for the purpose of grant of the benefit of family pension for a disabled son, the requirement would be the certificate of permanent disability as is spelt out from the communication dated 23/07/2024 (Pg.45) issued by the respondent No.3.

6. A perusal of the GR dated 13/09/2022 namely Clause 8 would indicate, that the benefits under the Rights of Persons With Disability Act, 2016 would be available, even to a person, who has been certified as a disabled person on a temporary basis, for the duration of such disablement (Pg.63). This read in conjunction with the language of Rule 116(5)(ii) proviso (iii) and (iv) of the MCS (Pension) Rules, would indicate, that the disabled son, would be entitled to family pension, for the duration of such disablement. The only requirement, to be satisfied is, that such disability/handicap is of such a nature so as to prevent him/her from earning his livelihood.

7. The impugned communication dated 23/07/2024, is therefore, quashed and set aside, only in respect of Clause 3 as contained therein which holds, that there is no requirement to produce a permanent disability certificate for the purpose of claiming family pension. This, however, does not absolve the petitioner, from satisfying the sanctioning authority, that because of the disability, the

petitioner, is unable to earn his livelihood. The petitioner, is therefore has to satisfy the authority in this regard. The petition is therefore partly allowed in the above terms. No costs.

(ABHAY J. MANTRI,J) (AVINASH G. GHAROTE, J)