



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

WRIT PETITION NO. 7593 OF 2025

1) Union of India,
Through General Manager,
South East Central Railway, Bilaspur.

2) Senior Divisional Personnel Officer,
South East Central Railway, Nagpur

3) Senior Divisional Finance Manager,
South East Central Railway, Nagpur

....PETITIONERS
(Original Resp.)

....VERSUS....

Seeta Jhariya c/o. Shiv Kumar Jhariya
Aged about : adult,
R/o: Ward No. 8, Talab Tola, Nainpur
Distt: Mandla, Pin code: 481 776

....RESPONDENT
(Original Applicant)

Shri S.A.Chaudhari, Advocate for petitioners.

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

DATE : 03/12/2025

JUDGMENT (PER: RAJNISH R. VYAS, J.)

Heard learned counsel for the petitioners.

2. The petitioners herein are the original respondents and the respondent herein is the original applicant before the Central Administrative Tribunal, Mumbai Bench, Mumbai in Original Application No. 1380/2024.

3. A challenge in this petition is to the judgment dated 09/07/2025 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai in Original Application No. 1380/2024. By way of the said judgment, the learned Tribunal has set aside the impugned order dated 27/03/2024 and directed the original respondent(s) to reconsider the case of the original applicant for grant of family pension. Further directions were also given.

4. The communication dated 27/03/2024 was issued by the respondent no. 2 rejecting the request of the original applicant for grant of pension, on the ground that, the decree of divorce is dated 01/07/2015, whereas the death of deceased

employee is 26/04/2005 and the death of mother of the original applicant is 01/12/2013, which is prior to the date of decree of divorce and therefore, the case of family pension of the original applicant cannot be considered.

5. The original applicant was the daughter of one Bisanlal who retired from railway service on superannuation in the year 2003. He died on 26/04/2005. After his death, his widow Khilla Bai, mother of original applicant, was getting family pension till her death on 01/12/2013.

6. The original applicant's marriage was performed on 30/06/1992, but due to certain reasons, thereafter, she returned to the parental house. According to the original applicant, her husband agreed to give a divorce to her on 25/11/2009 as per the prevailing local customs. She submitted that she had also filed a Hindu Marriage Suit No. 106 A of 2015 before the Court at Waraseoni, District Balaghat and her marriage was dissolved on 01/07/2015. She further contended that the office of the original respondent by various Office Memorandum had

granted pension to the widow daughter who had no independent source of income at the time of death of her mother. She states that she was also entitled to pension since she was residing separately from her husband and was not having any source of income.

7. The learned counsel of the original applicant submits that considering the aforesaid aspect, the learned Tribunal has rightly set aside the communication dated 27/03/2024 and therefore, the impugned order is just and proper.

8. Per contra, Mr. Chaudhari, learned counsel for the petitioners by filing the present petition has contended that the Tribunal has not given proper findings and failed to appreciate that the rules are clear about eligibility criteria for grant of family pension to the divorced daughter. He contended that the original applicant did not fulfill the eligibility criteria about the date of divorce which was after the death of the parents of original applicant. He further contended that the learned

Tribunal committed error by not considering the Office Memorandum dated 19/07/2017 which clearly states that the family pension towards divorced daughter will be granted in such cases where the divorce proceedings had been filed during the life-time of the employee/pensioner or his/her spouse but divorce took place after their death. According to him, in the present case, the competent Court had passed the decree of divorce after the death of pensioner/employee or his spouse.

9. We have considered the arguments advanced by the parties and have also gone through the record of the case. The learned Tribunal, while setting aside the order dated 27/03/2024, by which a request of the original applicant for grant of pension was rejected, dealt extensively with the matter. The learned Tribunal while deciding the issue has rightly stated that the original applicant was married on 30/06/1992 and after her marriage, there was a family dispute, therefore, during the lifetime of her father, she left the house of her husband and returned to her parents' home, which resulted in customary

divorce in the year 2009. The aforesaid fact, according to the learned Tribunal, was not disputed by the original respondent. The learned Tribunal has further dealt with the various judicial pronouncements of the different High Courts and finally set aside the impugned order.

10. At this stage, it is necessary to reproduce the observations of this Court in the case of **Union of India and another V/s. Usha Eknath Patil** reported in **2018(4) Mh.L.J. 450**, wherein the similar issue was involved. The relevant paragraphs of the said judgment are as under:-

“21. There cannot be any debate about this proposition. Here, Clause 19(b), mentioned supra, includes not only a widowed or divorced daughter but also unmarried daughter. The said clause also entitles adopted son or daughter to family pension. Clause therefore is wide and looks after welfare of family of deceased employee. Clauses 4 and 5 (highlighted portion, supra) of office memorandum dated 11-9-2013 show the intention of Railways not to leave a destitute woman without any means of livelihood. This object and intention can not be defeated in present facts.

22. In present facts, though customary divorce on 21-7-1992 may not be legally recognized, facts show that from said date Usha was not residing with her husband and was therefore member of family of her deceased father. She was therefore a destitute residing with her mother Vatsala who expired on 28-12-1999. When the provision entitles unmarried or a divorced or a widowed daughter to family pension, we find that Usha is definitely covered thereunder.”

11. Since the findings given by the learned Tribunal cannot be said to be perverse or without jurisdiction, we are not inclined to interfere in the impugned order passed by the learned Tribunal and therefore, the present petition deserves to be dismissed. Accordingly, the present petition stands **dismissed**.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)

B.T.K.