

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**MISC. APPLICATION NO. 457 OF 2017**  
**WITH**  
**CONT. PETITION NO. 42 OF 2018**  
**IN**  
**ORIGINAL APPLICATION NO. 497 OF 2015**

DIST. : NANDED

Aisha Begum Wd/o  
Mohd. Bin Gulam Husain Alkaseri,  
Age – 71 years, Occu. Household,  
Through POA / (son-in-law),  
Rafat Hussain Ansari,  
Age. 58 years, Occu. Soc. Service,  
R/o Sahaheen Traders, Quilla Road,  
Nanded.

--

PETITIONER

**V E R S U S**

1. The State of Maharashtra,  
(Copy to be served on Govt. Pleader  
MAT Aurangabad)
2. The Collector, Nanded  
(Mr. Arun Dongre)
3. The Sub Divisional Officer, Nanded  
(Mr. Pradip Kulkarni).

--

RESPONDENTS

APPEARANCE :- Shri Rafat Hussain Ansari (Power of  
Attorney holder / Son-in-law of the  
applicant) for the applicant.

: Shri M.S. Mahajan, learned Chief  
Presenting Officer for the respondents.

---

**CORAM** : **JUSTICE M.T. JOSHI, VICE CHAIRMAN**  
**A N D**

**ATUL RAJ CHADHA, MEMBER (A)**

**DATE** : **28<sup>th</sup> June, 2018**

---

**J U D G E M E N T**

*(Per : Justice M.T. Joshi, Vice Chairman)*

1. Heard Shri Rafat Hussain Ansari (Power of Attorney holder / Son-in-law of the applicant) for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. By the present M.A. the applicant is seeking direction to the respondents to grant her family pension and appoint her on compassionate basis claiming that her husband has died in harness while serving as a Driver with res. nos. 2 & 3.

3. The Contempt Petition is also filed by the present applicant as according to her while disposing of O.A. no. 497/2015 on 3.5.2016 this Tribunal has given directions to res. nos. 2 & 3 to trace out the service record of deceased husband of the present applicant i.e. Mohammed Chaush and to take a decision as to whether the deceased has served with the respondents and has earned pensionable service and to pass necessary orders regarding his absence from duty.

4. A copy of judgment dtd. 3.5.2016 in O.A. no. 497/2015 would show that the present applicant Smt. Aisha Begum w/o Mohammed Bin Gulam Husain Alkaseri claimed that said Mohammed Bin Gulam Husain Alkaseri was also known as

Monammed Chaush. The claim of the present applicant in such a situation was as under :-

5. Said Mohammed Bin Gulam Husain Alkaseri was also known as Mohammed Chaush was serving as a Driver with res. no. 3 from April, 1970 till his death i.e. till 10.5.1984. The present applicant in the year 2008 sought information from the res. no. 2 regarding service record of her deceased husband. Certain enquiry was made by the res. no. 2 – the Collector, Nanded. It was found that said Mohammed Chaush had proceeded on leave from 1.7.1976 and thereafter his whereabouts were not found in the office. He was neither retired nor removed from the service. In the circumstances, it is the claim of the present applicant that her deceased husband - Mohd. Bin Gulam Husain Alkaseri / Mohammed Chaush - remained in the service of respondents till his death i.e. 10.5.1984.

6. The respondents have also averred that one Mohammed Chaush was serving with the res. no. 3 from 1970 till 1976. Thereafter his whereabouts were not known. It was claimed in the O.A. that it was the duty of the present applicant as per Rule 136 of the Maharashtra Civil Services (Pension) Rules, 1982 to intimate the office about the death of her deceased husband so that next action could have been taken. In these circumstances,

the directions were given in O.A. no. 497/2015 that the service record of deceased Mohammed Chaush be traced out and a decision be taken as to whether the deceased has earned pensionable service and pass a necessary orders in that regard.

7. As the directions given by the Tribunal while disposing of O.A. no. 497/2015 were not followed by the respondents, the present Contempt Petition no. 42/2018 came to be filed. For the similar relief the present M.A. is also filed by the present applicant.

8. During the pendency of both these applications, the res. no. 2 - the Collector, Nanded - made a detailed enquiry and ultimately took a decision on 29.9.2017 (document 'X' in M.A. no. 457/2017). The decision of res. no. 2 would show that he had taken every effort to find out the facts. He could only found that one Mohammed Chaush was serving as a Driver for a period of 6 years i.e. for 1970 to 1976 as above. Thereafter nothing was known about him. The res. no. 2 - the Collector, Nanded - did not find any proof from the present applicant (though she appeared before him and submitted some documents) that, her deceased husband Mohd. Bin Gulam Husain Alkaseri and Mohammed Chaush - the employee - was one and the same person. He also could not find that the applicant is a wife of Mohammed Chaush.

He found that deceased Mohammed Chaush had not rendered pensionable service and hence the claim of the present applicant for grant of pension etc. was rejected.

9. Shri Rafat Hussain Ansari – Power of Attorney holder / Son-in-law of the present applicant – submitted that the record would show that late Mohammed Chaush served with res. no. 3 as a Driver for a period of 6 years. Admittedly he was neither terminated nor discharged for his absence for a long period and thus he continued in the service and, therefore, the res. no. 2 – the Collector, Nanded – ought to have held that the deceased was entitled for pension. He further submitted that the res. no. 2 wrongly held that the present applicant is not a widow of deceased Mohammed Chaush.

10. On the other hand, the learned P.O. took us through a decision of res. no. 2. He submitted that the said decision would show that the present applicant was called by the res. no. 2. Documents submitted by her were accepted. Not only this, but, the documents from the Medical Officer regarding death of deceased husband of the present applicant, the documents from Passport authority were also called by the respondent no. 2 sue moto. Despite this enquiry, the res. no. 2 did not find any substance in the claim of the present applicant that deceased

Mohd. Bin Gulam Husain Alkaseri and Mohammed Chaush are / were one and the same person or that the present applicant is a wife of Mohammed Chaush. He further submitted that the res. no. 2 has rightly decided that deceased Mohammed Chaush had not earned any pensionable service.

11. Upon hearing both the sides and upon going through the decision rendered by the res. no. 2 dtd. 29.9.2017 (document 'X' in M.A. no. 457/2017), in our view, there is no material on record to show that the present applicant is a widow of Mohammed Chaush and, therefore, the decision of res. no. 2 dtd. 29.9.2017 cannot be interfered with. In the result, we pass following order :-

**ORDER**

Misc. Application No. 457 OF 2017 and the Contempt Petition No. 42 OF 2018 are dismissed without any order as to costs.

**MEMBER (A)**

**VICE CHAIRMAN**

**Place : Aurangabad**  
**Date : 24<sup>th</sup> June, 2018**