

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**NAGPUR BENCH NAGPUR**

**CIVIL APPLICATION. NO. 319/2017**

**AND**

**ORIGINAL APPLICATION NO.675/2016.**

Smt. Sunanda Padmakar Umare,  
Aged about 50 yrs.,  
Occ-Housewife,  
R/o Old Nagpur Naka, Warora,  
Distt. Chandrapur.

**Applicant**

**-Versus-**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Department of Water Conservation,  
Mantralaya, Mumbai-440 032.
- 2) The Executive Engineer,  
Minor Irrigation (Water Conservation),  
Chandrapur.
- 3) The Sub-Divisional Engineer,  
Minor Irrigation (Water Conservation),  
Chandrapur.
- 4) The Executive Engineer,  
Medium Project Division No.1.,  
Chandrapur.
- 5) The Accountant General (A&E)-II, (M.S.),  
Civil Lines, Nagpur.

**Respondents**

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Shri S.C. Deshmukh, the Ld. Counsel for the applicant.  
Smt. M.A. Barabde , the learned P.O. for respondent Nos. 1 and 5.  
Shri K.D. Deshpande, the learned counsel for respondent Nos. 2 to 4.

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**Coram:- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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**JUDGMENT**

**(Delivered on this 3<sup>rd</sup> day of August 2017.)**

Heard Shri S.C. Deshmukh, the learned counsel for the applicant and Smt. M.A. Barabde, the learned P.O. for respondent Nos. 1 and 5. Shri K.D. Deshpande, the learned counsel for respondent Nos. 2 to 4.

2. The applicant Smt. Sunanda Padmakar Umare has filed this O.A. and claiming regular monthly family pension and entire amount of Death-cum Retirement Gratuity (D.C.R.G.) and also seeks directions to the respondent Nos. 1 to 4 to pay the amount of link insurance and home town travel concession.

3. Applicant's husband joined the service of the respondents as Clerk-cum-Typist in 1982 and was promoted as Senior Clerk on 11.1.2013. He died during service on 4.2.2015. The applicant has also received provisional pension from 5.2.2015 to 4.2.2016. But she did not get regular family pension and D.C.R.G. alongwith interest and, therefore, she has filed this O.A.

4. Affidavit in reply has been filed by respondent No.4. The applicant has filed one chart in respect of pensionary benefits and interest due. The said chart is at page No.59. The learned counsel for the applicant submitted that there are in all seven items for which the applicant is claiming various amounts as per the said chart. However, she has received regular monthly pension as per order of the Accountant General (M.S.), Nagpur dated 16.1.2017 and arrears of family pension from 5.2.2016 onwards amounting to Rs. 1,88,000/-.

5. The learned counsel for the applicant submits that out of the amount of Rs. 4,87,740/- towards the amount of DCRG, the amount of Rs. 1,40,111/- was withheld. Similarly, amount of link insurance and home town travel concession has not been paid.

6. The respondents have placed on record a pursis at page Nos. 60 & 61 in which it is stated that the applicant's husband late Shri Padmakar Umare was transferred from Tultuli Project Division to Minor Irrigation Division (Jalsandharan), Chandrapur. He was given opportunity of personal hearing by the Superintending Engineer and the Executive Engineer and he accepted his liability towards the loss of issuance of items and also agreed to repay the said amount. Thereafter recovery was kept in abeyance and he was given a chance / opportunity to make the loss good to the Government. It is further

stated in the said pursis that after the death of Shri Umre, his widow i.e. the applicant requested for visual inspection of stores through her son and brother and as a special case, permission was granted. After inspection, it was found that the amount was to be recovered from the husband of the applicant. The applicant, therefore, gave consent for recovery from the post death benefit. The said undertaking was accepted.

7. Respondent No.4 has filed pursis which is at page Nos.41 and 42 of the O.A and submits that the applicant has knowingly and intentionally concealed and suppressed the material fact about her admission of refund of amount of Rs.89,430/- and Rs. 681/- (Total Rs. 90,111/-) towards shortfall of stores and obtained the order from this Tribunal on 23.11.2016 by misrepresentation, misleading and misguiding this Tribunal. In the said pursis, it is stated that the applicant was asked to submit an affidavit to shoulder future liability to avoid legal complications. But the applicant did not submit an affidavit. A letter was also forwarded to the C.P.O., M.A.T., Nagpur on 25.11.2016. Copy of the letter is placed on record at page No.43 of the O.A in which undertaking was sought from the applicant as under:-

कायकार अभयता, चंपूर मयम कप,खभाग .१, चंपूर  
यांनी प . ९४१/आ-४/धा-८४/२०१६ द. ७.४.२०१६ अवये

कळवलेल्या भांडार साह्याची तुट ₹.८९,४३०.०० व ₹. ६८१.०० एकूण ₹. ९०,१११.०० उपदानातून वसूल करण्यात येईल.

२. या कायालयाने पीमती सुनंदा पद्माकर उमरे यांना मागितलेल्या ₹. १००.०० च्या stamp paper वर “भाषण्यात मोजमाप पुस्तकाबाबत काही अडचण झाली व या अनुषंगाने आर्थिक वसूल करण्याची वेळ आली तर, याची सवयी जबाबदार आम्हा सव वारसाणाची सामुहिक राहिल असे लेखी हमीपत्र मागितले आहे. परंतु संबंधितांच्या वारसदारांनी अद्याप लेखी हमीपत्र या कायालयास सादर केले नाही तर संबंधितांकडून उपरोक्त प्रमाणे हमीपत्र प्रत्येकदा देऊन देण्यात येणाऱ्या उपदानाच्या रकमेतून ₹. ५०,०००/- रोखून ठेवण्यात येईल व संबंधितांकडून लेखी हमीपत्र मिळताच सदर रकम तपासणी देऊन देण्यात येईल.”

8. The Ld. P.O. submits that if the applicant gave such undertaking, regular pension can be released and all her dues can be released.

9. From whatever affidavit and pursis placed on record on behalf of the respondents, it seems that the employee Padmakar Umre seems to have lost some books and items and the respondents wanted to recover that amount from Shri Padmakar Umre. It is stated that Shri Padmakar Umre also agreed that the said amount was due against him and, therefore, a chance was given to Shri Padmakar Umre either to search for the items or to pay the amount. Not only that even after the death of Shri Padmakar Umre, applicant was given an

opportunity to search for the items which were lost. Initially recovery seems to be worth Rs. 1,89,908/-. But subsequently the said amount is limited to Rs.70,750/- and, therefore, the respondents are bent upon to recover this amount from the retiral benefits of the deceased employee.

10. The respondents have filed an application for direction to the applicant to refund excess amount paid to her husband. The said amount is allegedly to be paid on account of naxal incentive bonus to her deceased husband. For recovery of the said amount, the respondents have filed C.A. No.319/2017. The said application on the part of the respondents cannot be accepted in the O.A. filed by the applicant employee. In fact, applicant's husband had died and this O.A. has been filed for recovery of pensionary benefits and in this O.A., the State cannot file an application for direction for recovery of the excess amount. C.A. No. 319/2017, therefore, stands dismissed as not tenable.

11. For the reasons discussed in foregoing paras, it will be thus crystal clear that whatever amount is to be recovered, was due towards the husband of the applicant. There is nothing on record as to why the respondents did not take any steps to recover the amount from the husband of the applicant during his service period. In such

circumstances, recovery of the said amount after the death of husband of the applicant / deceased employee is not permissible. The husband of the applicant was a Sr. Clerk and it seems that his wife i.e. the applicant has co-operated the department, even she tried to find out the lost articles and the difference of the recovery was considerably reduced. In such circumstances, letters obtained from the applicant that she was ready to repay the amount etc. cannot be said to be obtained freely. The learned counsel for the applicant submits that the applicant has signed letters, since she was having no other go, but to accept the liability as her amount of pension was not being paid. Considering the circumstances, I am of the opinion that so called dues as the respondents want to recover from the applicant by giving undertaking as per letter addressed to the CPO, MAT, Nagpur, will not serve the purpose.

12. So far as the claim of the applicant as regards her home town travel concession is concerned, the respondents have stated that the reasons as to why the said due was rejected and I do not find any reason to interfere in the decision taken by the respondents in rejecting her home town travel concession to the applicant.

13. In view of the discussion in foregoing paras, I proceed to pass the following order:-

(i) The O.A. is partly allowed.

(ii) The respondents are directed to immediately pay the dues claimed by the applicant except home town travel concession. Remaining dues shall be paid **within two months** from the date of this order.

(iii) Since the respondents cannot be blamed to be solely responsible for the delay, the applicant's claim for interest on the retiral benefits cannot be considered at this juncture. It is further made clear that if the dues for which the applicant is entitled to claim are not paid within three months from the date of this order, the applicant may claim interest by filling representation from the date of her entitlement till she actually receives the amount.

(iv) In the peculiar circumstances, no order as to costs.

(v) C.A. No. 319/2017 filed by the respondents stands dismissed.

(J.D.Kulkarni)  
Vice-Chairman (J)



