

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 833/2019 (S.B.)**

Smt. Tarabai Wd/o Parshuram Dongre,  
Aged about 60 years,  
Occupation - Household, R/o at Post Saoli,  
Tal. Saoli, District - Chandrapur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Secretary,  
Ministry of Home,  
Mantralaya, Mumbai – 400 032.
- 2) Superintendent of Police,  
Civil Lines, Chandrapur.
- 3) Accountant General-I,  
Account and Finance,  
Civil Lines, Nagpur- 440 001.

**Respondents**

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**Shri H.M.Bobade, Id. Advocate for the applicant.**

**Shri V.A.Kulkarni, Id. P.O. for the Respondents.**

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**Coram :- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.**

**Dated :- 07.11.2023.**

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**JUDGEMENT**

Heard Shri H.M.Bobade, Id. counsel for the applicant and Shri  
V.A.Kulkarni, Id. P.O. for the Respondents.

2. Case of the applicant in short is as under-

The applicant is second wife of deceased Parshuram Madguji Dongre. He was working as a Police Constable in Chandrapur District. The deceased Parshuram Madguji Dongre married to the present applicant on 15.01.1984. The first wife of Parshuram Dongre died on 23.06.2007 due to illness. The husband of the applicant made various applications to the respondents for including the name of the applicant towards the nominee for family pension. He had made application on 24.06.2009. But, it is not decided by the respondents. The husband of applicant died on 22.06.2018. The applicant is only dependent/ legal heir of the deceased. She is entitled to get the family pension. But, the respondents are not paying the same. Hence, the applicant is approached to this Tribunal for the following relief-

- (i) direct the respondents to grant family pension to the applicant after the death of Parshuram Madguji Dongre ;***
- (ii) declare that the present applicant is the legally wedded wife of late Parshuram Madguji Dongre and direct the respondents to include the name of the present applicant being a nominee of late Parshuram Madguji Dongre in the family pension;***

3. The O.A. is strongly opposed by the respondents by filing reply. It is submitted that the applicant is second wife of deceased and therefore, she is not entitled for family pension.

4. During the course of submission, the learned counsel for the applicant has pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Kamalabai w/o Venkatrao Nipanikar Vs. the State of Maharashtra and others** and the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Kantabai w/o Dhulaji Shriram and others Vs. Hausabai Dhulaji Shriram and others 2015(3)Mh.L.J. 883**. The learned counsel for the applicant has pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in the case of **Kamala Vasant Yenke Vs. Principal Accountant General (A & E) II and others in Writ Petition No.4474/2022 decided on 13.03.2023**. In the case of **Kamalabai w/o Venkatrao Nipanikar Vs. the State of Maharashtra and others**, the Hon'ble Bombay High Court, Bench at Aurangabad has held that second wife is entitled to get family pension provided that if she is legally wedded wife. In the case of **Kamala Vasant Yenke Vs. Principal Accountant General (A & E) II and others** the Division Bench of Hon'ble Bombay High Court, Bench at Nagpur has held in para nos. 4, 5, 6 and 7 as under-

4. ***Mr. Vasant Yenke was serving as an Accountant on the establishment of the Forest Department at Sironcha, District Gadchiroli. He retired on 30.06.2001 and expired on 25.12.2019.***

5. ***It is averred in the petition that Mr. Vasant Yenke had two wives. The other wife Smt. Leelabai however, predeceased Mr.***

*Vasant Yenke and as on the death of the employee the petitioner was the surviving wife. It is further averred in the petition that the learned Judicial Magistrate First Class, Aheri rendered order dated 17.02.2020 in M.J.C. 25/2020 issuing Succession Certificate in favour of the petitioner herein and her two children from marriage with Mr. Vasant Yenke.*

6. *It is not the case of the respondent that at the time of the death of the employee there were two surviving wives. We note from the affidavit in response filed on behalf of the respondent 1, that pension is refused only on the ground that in the record available the nominee is late Smt. Leelabai.*

7. *We are not required to delve deeper. It is trite law that neither the official record nor the nomination therein is conclusively determinative of the entitlement to pension. In view of the undisputed position on record that Smt. Leelabai died in 2016 much prior to the death of the employee Mr. Vasant Yenke in 2019, and the petitioner has been issued Succession Certificate, we see no difficulty in allowing the petition in terms of prayer clause (a) and (b) which read thus:*

*(a) That this Hon'ble Court be pleased to issue a writ of in the nature of mandamus to the respondent no.1& 2 and direct them to provide the benefits of pension of the deceased Vasant Yenke.*

*(b) To direct the respondents 1 & 2 to pay the arrears of pension from the date of the deceased to the date of the disposal of this petition.*

5. The applicant is only survives wife of deceased. The first wife of deceased employee is already died. The facts in the present O.A. are similar in the case of *Kamala Vasant Yenke Vs. Principal*

**Accountant General (A & E) II and others.** Therefore, the following order is passed-

**ORDER**

1. The O.A. is allowed.
2. The respondents are directed to include the name of applicant as nominee of late Parshuram Madguji Dongre for the family pension.
3. The respondents are directed to pay the family pension as per the Rule, to the applicant.
4. No order as to costs.

**(Shri Justice M.G.Giratkar)  
Vice Chairman**

**Dated :- 07/11/2023.  
rsm.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 07/11/2023.  
and pronounced on