

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

**ORIGINAL APPLICATION NO. 542 OF 2023**

**DISTRICT : NANDED**

**Radhabai w/o Eknath Jondhale,** )  
Age : 38 years, Occupation : Nil (Household), )  
R/o. Sunil Nagar, Balirampur, CIDCO, )  
Nanded, Dist. Nanded. )

.... **APPLICANT**

**V E R S U S**

01. **The State of Maharashtra,** )  
Through Secretary, )  
Revenue and Forest Department, )  
Mantralaya, Mumbai-32) )

02. **The Deputy Range Forest Divisional Officer,)**  
Near Gandhi Statue, Forest Department,) )  
Vajirabad, Nanded. )

... **RESPONDENTS**

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**APPEARANCE** : Shri A.D. Gawale, Counsel for the Applicant.

: Smt. Resha Deshmukh, Presenting Officer for  
respondent authorities.

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**CORAM** : **Shri A.N. Karmarkar, Member (J)**

**RESERVED ON** : **22.04.2025**

**PRONOUNCED ON** : **28.04.2025**  
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**O R D E R**

1. By filing the present Original Application, this applicant has prayed for quashing and setting aside impugned order dated 19.05.2023. The applicant has prayed for directions to the respondent No. 2 to grant pension and pensionary benefits in her favour.

2. Applicant's husband viz. Eknath Jondhale was serving on the post of 'Vanmajur' on the establishment of respondent No. 2, who died on 11.04.2021. The in-laws of the applicant intentionally got prepared death certificate of deceased Eknath showing name of Sangita as wife of deceased employee, so as to harass the present applicant. Sangita i.e. wife of deceased Eknath died before 15 years. Thereafter, the present applicant was married to Eknath in the year 2010. After obtaining the death certificate of Eknath, the applicant has filed Misc. Civil Application R.J.E. No. 394/2023 before Ld. Civil Judge Junior Division 5<sup>th</sup> at Nanded. The said M.A.R.J.E. was allowed and issued heir-ship certificate in favour of the present applicant on 20.04.2023. Then the present applicant has applied to respondent No. 2 for getting pensionary benefits. The respondents have refused to accept the prayer of applicant by mentioned that until M.A.R.J.E. No. 894/2021 is disposed of, such benefits cannot be given. M.A.R.J.E. No. 894/2021 is filed by father-in-law, daughter-in-law and one Gangasagar Gavle, who is claiming to be daughter of deceased Eknath. The said Gangasagar has no concerned with deceased Eknath Jondhale. The applicant has thus prayed to allow the present Original Application.

3. Respondent Nos. 2 and 3 have filed their affidavit in reply. According to them, they have rightly rejected the request of applicant for releasing pensionary benefits, as M.A.R.J.E. No. 894/2021 filed by Satwaji Jondhale and Ors. is pending for decision. The present applicant has obtained legal heir-ship certificate on 20.04.2023 by making false statement that there is no other legal heir to deceased Eknath except the present applicant. Thus the respondents have prayed to dismissed the present Original Application.

4. I have heard Shri A.D. Gawale, learned counsel for the applicant and Smt. Resha Deshmukh, learned Presenting Officer for the respondent authorities. Both the parties have submitted as per their respective contentions.

5. According to learned counsel for the applicant, the present applicant got married to deceased Eknath after two months of death of first wife Sangita. Photocopies of photographs showing her marriage to deceased Eknath are placed on record by the applicant. Learned counsel has referred Rules 111(5), 112 and 117 of Maharashtra Civil Services (Pension) Rules, 1982 in support of entitlement of the applicant to get pensionary benefits.

According to him, heir-ship certificate was granted in favour of the applicant by adopting necessary procedure.

6. Learned Presenting Officer has submitted that M.A.R.J.E. No. 894/2021 is filed by father, son and daughter of deceased Eknath for getting succession certificate, which is pending. It is contended in the said petition /application that expect these applicants in it, there are no other legal heirs to deceased Eknath. It is specifically stated that the applicant has not placed on record any document to show that she is legally wedded second wife of deceased Eknath.

7. During the course of arguments, learned counsel for the applicant has submitted that so far as grant of pension and pensionary benefits are concerned, directions may be given to the respondents to release the said benefits. For that purpose he has referred Rule 111, 112 and 117 (6) of the Maharashtra Civil Services (Pension) Rules, 1982, under which the applicant is entitled for pension. It has to be noted that Rule 117(6) of the Maharashtra Civil Services (Pension) Rules, 1982 may not be applicable, as the deceased employee was not in service in December 1963. Service book shows that he joined his service in the year 1994.

It has also to be noted that in view of the directions of this Tribunal dated 07.05.2024, death certificate of first wife of deceased Eknath is placed on record. Subsequently, in view of the directions of this Tribunal dated 28.02.2025, the applicant has placed on record a copy of Civil Misc. Application No. 394/2023 filed by the present applicant for getting heir-ship certificate. He has also filed a copy of M.A.R.J.E. No. 894/2021 filed by the father, son and daughter of deceased Eknath. The respondents have also placed on record service book of deceased Eknath as per the directions of this Tribunal.

8. It is undisputed fact that Government employee-Eknath died on 11.04.2021. The applicant has contended that when she went to Municipal Corporation, Nanded for obtaining death certificate of her husband i.e. deceased-Eknath, she came to know that name of Sangita is shown as wife of deceased Eknath in the death extract. She has further contended that said Sangita has already expired before 15 years. Thereafter the applicant got married to deceased Eknath in the year 2010. So this contention itself shows that the applicant has come with a case that she is second wife of deceased Eknath. Actually the present applicant has not made clear about her exact date of marriage nor any document is placed on record in that regard.

Photocopy of death certificate of first wife viz Sangita of deceased is placed on record. It shows the date of death of Sangita as 23.09.2011. Applicant has come with a case that she got married to deceased Eknath in the year 2010. This itself shows that the present applicant has got married to deceased employee Eknath during subsistence of his first wife Sangita.

The applicant has placed on record a copy of Civil Misc. Application No. 394/2023, which was filed before the Court of Civil Judge Junior Division, Nanded. In the said application, the applicant has just contended that she is the wife of deceased Eknath and she has no issue. She has contended in the said matter that deceased Eknath has no other legal heirs. Copy of M.A.R.J.E. No. 894/2021 filed before the Civil Judge Junior Division, Nanded by the father, son and daughter of deceased Eknath shows the contention that first wife Sangita of deceased Eknath died before the death of deceased employee.

Impugned order dated 19.05.2023 (Annexure A-4, page No. 14 of paper book) shows that the applicant approached the respondents along with heir-ship certificate and at that time the department has made her aware that son, daughter and father of deceased Eknath have filed application for getting

succession certificate vide M.A.R.J.E. 894/2021 before the Civil Judge Junior Division, Nanded and it is pending. Father, son and daughter of deceased Eknath have also forwarded application to the respondents intimating that pensionary benefits are not to be given to the applicant due to pendency of their proceeding before the Civil Court and the present applicant has obtained heir-ship certificate falsely. It does not reveal from the contentions in the present Original Applicant that the applicant has approached before the concerned Court where the said M.A.R.J.E. No. 894/2021 is pending for making her as party respondent.

9. The applicant seems to have raised the contention that she is the second wife of deceased Eknath. Applicant has not placed on record any document showing exact date of her marriage with deceased Eknath. But it is already discussed in foregoing paragraphs that the applicant got married with deceased Eknath during subsistence of his first wife Sangita. Now it is to be seen as to whether the applicant being a second wife of deceased Eknath is entitled to get relief of family pension?

10. It is necessary to refer the judgment of Hon'ble High Court of Bombay, Bench at Aurangabad in a case of **Kamlabai**

**W/o Venkatrao Nipanikar Vs. The State of Maharashtra and Ors.**  
**in W.P. No. 9933/2016** and other connected W.Ps. in which following question was referred to the Larger Bench for determination :-

*“In cases to which, Maharashtra Civil Services (Pension) Rules, 1982, apply whether the second wife is entitled to claim family pension?”*

The Full Bench of Hon’ble High Court of Bombay, Bench at Aurangabad by judgment dated 31.01.2019, has answered the reference as under :-

*“In cases to which Maharashtra Civil Services (Pension) Rules, 1982 apply, the family pension can be claimed by a widow, who was legally wedded wife of the deceased employee. Second wife, if not a legally wedded wife, would not be entitled for family pension and if the second wife is legally wedded wife, then should be entitled for the family pension.”*

In view of the ratio laid down by the Hon’ble High Court as discussed above, the applicant cannot be said to be entitled for getting pension.

11. The applicant has placed on record a copy of sale deed in her favour in the name of Radhabai Eknath Jondhale. She has also placed on record photocopies of photographs of her marriage with deceased Eknath. But it will be difficult to say



only on the basis of these documents that the applicant is legally wedded second wife of deceased Eknath. Even if the present applicant has obtained heir-ship certificate, she cannot be said to be entitled to get family pension in view of the judgment of Hon'ble High Court of Bombay, Bench at Aurangabad in a case of **Kamlabai W/o Venkatrao Nipanikar** (cited supra).

12. The applicant has contended in the present Original Application that her father-in-law and mother-in-law have prepared the death certificate mentioning the name of Sangita as wife of deceased employee. Secondly, the applicant approached Municipal Corporation, Nanded and on instruction of concerned authority of Municipal Corporation, Nanded, she has filed Aadhar Card, Pan Card etc. and then the correction was made in the death extract. So it can be said that the applicant had knowledge that deceased Eknath was married to one Sangita, but she has avoided to mention the said fact in Misc. Civil Application No. 394/2023. It can be said that the applicant tried to conceal this fact from the Court. There are no bona-fides on the part of applicant.

13. The respondents have come with a case that M.A.R.J.E. No. 894/2021 filed by father, son and daughter of

deceased Eknath is still pending before the Civil Judge Junior Division, Nanded and therefore, they have intimated the present applicant that they cannot release pensionary benefits in her favour. So it is clear that the issue regarding entitlement of other legal heirs regarding pensionary benefits is still pending. Therefore, it cannot be said that the impugned order was passed arbitrarily or it is improper. In view of pendency of M.A.R.J.E. No. 894/2021 before learned Civil Judge Junior Division, Nanded, filed by other heirs of deceased employee Eknath, at this stage, the applicant cannot be said to be entitled for getting pensionary benefits as claimed in the present O.A.

14. Thus the discussions in foregoing paragraphs lead me to say that the Original Application deserves to be dismissed. Hence, the following order :-

**ORDER**

- (i) The Original Application stands dismissed.
- (ii) There shall be no order as to costs.
- (iii) The original service book shall be returned to the learned Presenting Officer forthwith.

**(A.N. Karmarkar)**  
**Member (J)**

**PLACE : Aurangabad**

**DATE : 28.04.2025**

**KPB S.B. O.A. No. 542 of 2023** ANK Pension and pensionary benefits