

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 687 of 2022 (S.B.)**

Ruchi D/o Zanaklal Shahare,
Aged about-30 years, Occupation-Nil,
R/o Shri Manmkar, Nehru Ward, G.T. Road,
Post-Tiroda, Dist- Gondia.

Applicant.

Versus

1. The Government of Maharashtra,
Department of Forest,
Mantralaya, Mumbai - 400032.
Through its Secretary.
2. The Chief Conservator (Nagpur Region),
Forest Department, B.S.N.L.Sanchaar Building,
Near Kasturchand Park, Dhantoli, Nagpur-01.
3. The Accountant General-II, Accounts and Establishment,
Post Box No-114, Near High Court, Civil Lines, Nagpur-01.
4. The Deputy Conservator of Forest,
Gondia Forest Department, Gondia.

Respondents.

Shri S.M. Khan, Advocate for the applicant.
Shri A.P. Potnis, learned P.O. for respondents.

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

Dated :- 09/07/2024.

J U D G M E N T

Heard Shri S.M. Khan, learned counsel for the applicant
and Shri A.P. Potnis, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The father of applicant Mr. Zanaklal Ratiram Shahare was working with respondents as a Senior Clerk at Gondia. He died on 04/02/2013.

3. After the death of father of applicant, mother of applicant Mrs. Rajkumari Zanaklal Sahare was getting family pension. With the help of family pension, the applicant and her mother able to manage their family expenses.

4. The mother of applicant died on 23/04/2021. The applicant is unmarried daughter of deceased Mr. Zanaklal Ratiram Shahare. She is not earning any pie, she was dependent of deceased, therefore, she is entitled for family pension. Hence, the applicant filed this O.A. for the following reliefs –

“(7) (i) require the Respondents to consider the case of applicant of continuation of paying family pension for her survival in continuation from the date it has been stopped.

(ii) require the Respondents to pay arrears of family pension not paid after the death of her mother and grant any other or further relief as may be deemed fits and proper in the circumstances of the case.”

5. The O.A. is opposed by respondent 1,2& 4. It is submitted that applicant's mother was getting pension. After the death of her mother, the applicant cannot get family pension. As per condition laid down in Rule 116 (5) of the Maharashtra Civil Services (Pension) Rules, 1982, the pension is payable (a) in case of widow upto the date

of death or re-marriage (b) in case of a son, until he attained the age of 21 years and (c) in case of an unmarried daughter, until she attains the age of 24 years or until she gets married, whichever is earlier. The applicant is aged about 30 years and therefore she is not eligible to get family pension. Hence, the O.A. is liable to be dismissed.

6. During the course of submission, learned counsel for applicant has pointed out the Notification issued by the Government of Maharashtra dated 08/02/2024. The Rule 116 of the M.C.S. (Pension) Rules is amended. As per the new rule, unmarried daughter even after completion of 24 years of age is entitled to get family pension. Notification is the material and therefore it is reproduced below –

”

NOTIFICATION

CONSTITUTION OF INDIA.

No. PEN-2018/CR.44/SER-4.- In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Maharashtra is hereby pleased to make the following rules further to amend the Maharashtra Civil Services (Pension) Rules, 1982, namely:-

1. These rules may be called the Maharashtra Civil Services (Pension) (Amendment) Rules, 2024.

2. In Rule 116 of Maharashtra Civil Services (Pension) Rules, 1982, in sub-rule (5), —

(a) for clause (iii), the following clause shall be substituted, namely:-

"(iii) in the case of an unmarried daughter (other than a daughter suffering from a mental or physical disability), until she attains the age of twenty-four years or until she gets married, whichever is earlier or widowed or divorced and not earning her livelihood;"

(b) in the proviso, after paragraph (v), the following paragraphs shall be added, namely :-

"(vi) the disability existed before the death of Government servant or pensioner and his or her spouse;

(vii) where a deceased Government servant or pensioner is not survived by a widow or widower or son or daughter eligible for family pension under clause (i) or clause (ii) or clause (iii) or if a widow or widower or son or daughter eligible for family pension under clause (i) or clause (ii) or clause (iii) dies or ceases to fulfill the eligibility conditions for family pension prescribed in those clauses, the family pension shall be granted or continued to be payable to an unmarried or widowed or divorced daughter beyond the age of twenty-four years for life or until she gets married or remarried or until she starts earning her livelihood, whichever is the earliest, subject to the following conditions, namely :-

(a) the family pension shall be initially payable to the children in the order set out in paragraphs (ii) to (iv) until the last child attains the prescribed age;

(b) there is no disabled child eligible to receive family pension in accordance with paragraphs (i) and (ii);

(c) the unmarried or widowed or divorced daughter was dependent on her parent or parents when he or she or they were alive;

(d) where a deceased Government servant or pensioner leaves behind more than one unmarried or widowed or divorced daughter beyond the age of twenty- four years, family pension shall first be payable to such daughter, who fulfill the eligibility conditions for grant of family pension under this sub-rule, in the order of their birth;

(e) the elder daughter shall be entitled to the family pension till she has got married or remarried or has started earning her livelihood, whichever is earlier and the younger of the daughters will be eligible for family pension after the elder next above her has got married or remarried or has started earning his or her livelihood or has died.

(f) in the case of widowed daughter, death of her husband and in the case of divorced daughter, her divorce took place during the lifetime of the Government servant or pensioner or his or her spouse:

Provided that, the family pension shall be payable to a divorced daughter from the date of divorce if the divorce proceedings were filed in a competent court during the life time of the Government servant or pensioner or his or her spouse but the divorce took place after their death:

Provided further that, if, consequent on the death of the Government servant or pensioner and his or her spouse, the family pension to any other eligible member of the family has become payable before the date of divorce of daughter, the family pension to such divorced daughter shall not commence before the aforesaid member of the family ceases to be eligible for family pension or dies.";

(c) in the Explanation, in paragraph (b), after the words "she gets married" the words "except daughter suffering from a mental or physical disability" shall be added."

7. In view of clause (vii) of Rule 2 (c) of the Notification, it is clear that the unmarried daughter is entitled to get family pension till

she gets married or re-married or until she starts earning her livelihood, which were is earliest. The applicant is not earning. She is not married. Therefore, the applicant is entitled to get family pension as per the Notification dated 08/02/2024. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to pay family pension of deceased Mr. Zanaklal Ratiram Shahare to the applicant Ruchi Zanaklal Shahare.
- (iii) No order as to costs.

Dated :- 09/07/2024.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 09/07/2024.