

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:507/2001

DATE OF DECISION: 16th January 2003

Smt. Laxmibai Nathuram Zele. Applicant.

Shri R.S. Datar Advocate for
Applicant.

Verses

The Commissioner of Customs Pune and others Respondents:

Shri V.D. Vadhavkar. Advocate for

CORAM

Hon'ble Shri S.L.Jain Member (J)

(1) To be referred to the Reporter or not? yes

(2) Whether it needs to be circulated to other Benches of the Tribunal? No

(3) Library. yes

S.L. Jain
(S.L. Jain)
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 507/2001

the 16th day of JANUARY 2003

CORAM: Hon'ble Shri S.L. Jain, - Member (J)

Smt. Laxmibai Nathuram Zele
Residing at & Post Vashi
Taluka Pen. Dist. Raigad.

...Applicant.

By Advocate Shri R.S. Datar.

V/s

1. The Commissioner of Customs
having his office at ICD House
41-A, Opposite Wadia College
Pune.
2. The Assistant Chief Accounts
Officer, Customs Head Quarters
Pune.
3. The District Treasury Officer
Raigad, Alibag.
4. Senior Accounts Officer
Central Excise And Customs
Pune Commissionerate
5. The Assistant Collector,
Customs Ratnagiri
Having his office at
Jail Road, Ratnagiri.
6. The Assistant Commissioner,
Central Excise, Ratnagiri
Division, Ratnagiri.

...Respondents

By Advocate Shri V.D. Vadhavkar.

O R D E R

{Per S.L. Jain, Member (J)}

The applicant is challenging the order dated 17 / 18 th April 2000 passed by Respondent No. 2 rejecting her claim for family pension being the widow of Nathuram Ambaji Zale.

2. The claim of the applicant is denied by the respondents on the ground that as per Rule 54(14) of CCS Pension Rule 1972.

Family Pension is not admissible to the Second wife as the marriage being void in view of Hindu Marriage Act 1955 and no proof of the marriage having been solemnised have been adduced by the applicant.

3. The applicant claims that marriage was solemnised in the year 1945 before coming into force of Hindu marriage Act 1955 and she is entitled to family pension as there exist sufficient evidence to arrive to the conclusion that their marriage was solemnised with Nathuram Ambaji Zele and she is his widow.

4. The applicant has placed on record the Heirship Certificate (Exhibit A) issued by Tahsildar Pen on 25.4.1986. The purpose of issue of the certificate is mentioned there in which is extracted below:

As aforesaid, the deceased has three heirs. This Heirship Certificate has been issued on the basis of local enquiry made by Talathi, Vashi. This certificate is valid for the purpose of the pension of the deceased.

The heirship certificate issued by the Tahsildar, Pen - the purpose for which it was issued cannot be extended for any purpose, as such no consideration can be attached to it.

5. Smt Anandibai - the first widow of the deceased Nathuram Ambaji Zele received the family pension after the death of her husband with effect from 21.6.1983 till her death on 21.12.1994.

6. The applicant has placed her affidavit regarding the marriage solemnised in the year 1942 while she claims that marriage was solemnised in the year 1945. Also placed affidavit of Datatraya Janardan Singasanse and Krishna Dhau Mahatre regarding solemnising of marriage in the year 1945.

7. The learned counsel for the applicant relied on letter dated 31.12.1988 said to be signed by late Anandibai, the first widow of the deceased Nathuram Ambaji Zele. Suffice to State that the said letter was not pressed in service any time after 1988 till the death of Anandibai in the year 1994.

8. The learned counsel for the respondents argued that during the period commencing from 1945 till death of Nathuram Ambaji Zele in the year 1983, he never informed the respondents about the marriage with the applicant, as such the conduct suggests that no such marriage was ever solemnised.

9. The declaration of Status - being the legally wedded wife of Nathuram Ambaji Zele is within the jurisdiction of Competent Civil Court where all these questions can be gone into in detail. opportunity to cross examine the witnesses who have tendered the affidavits is available there. This Tribunal cannot arrive to a conclusion of status of the applicant in absence of any public document on record regarding the same.

P. V. M. ? -

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10. In the result the OA is disposed of with the direction that the applicant is entitled to have declaration of her status as widow of Nathuram Ambaji Zele by competent Civil Court wherein the respondents are arrayed as party i.e. defendants. After the result of the same the claim of the applicant be reconsidered by the respondents in view of the finding recorded by Competent Civil Court. No order as to cost.

P.L.Jain
(S.L.Jain)
Member(J)

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