

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 491/94.

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DATE OF DECISION: NOVEMBER 14, 1994.

Smt. Kamlabai Dagdu Ahire, Petitioner

Shri D. V. Gangal, Advocate for the Petitioners

Versus

Union Of India & Others, Respondent


Shri R. K. Shetty, Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B. S. Hegde, Member (J).

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1. To be referred to the Reporter or not ? *Y*
2. Whether it needs to be circulated to other Benches of the Tribunal ? *o*


(B. S. HEGDE)
MEMBER (J).

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2. In this O.A., the applicant has prayed for the following reliefs :-

- (a) that the Hon'ble Tribunal be graciously pleased to call for the records of the case from the respondents and after examining the same issue a writ of certiorari quashing the impugned order dated 28.01.1994 at Annexure "A-1" hereto.
- (b) to hold and declare that the Applicant is entitled to be granted family pension and also compassionate appointment;
- (c) to hold and declare that the Respondents should regularise the quarter in favour of the Applicant and recover any normal rent from her and recovery of penal rent be quashed as the same is illegal.

3. The Learned Counsel for the applicant submits that the applicant is a legally wedded wife of the deceased Shri Dagdu Ahire, though Shri Dagdu Ahire was married to one Smt. Subhadrabai, ^{and later} she was divorced mutually between the parties on 19.07.1982. Thereafter, he married the present applicant. The deceased employee, Shri Dagdu Ahire, was medically boarded out in the year 14.10.1990 and he has nominated the present applicant as one of the beneficiary to the pensionary benefits. After the nomination of the present applicant, the deceased employee, Shri Dagdu Ahire, expired on 11.09.1992. Thereafter, when she made an application for payment of the pensionary benefits and compassionate appointment, she has been directed by the Respondents to produce legal heirship certificate ~~and the~~ and the divorce certificate from the Court

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Original Application No. 291/94

Smt. Kamlabai D. Ahire,

v/s

..Applicant.

Ministry of Defence.

..Respondents.

Coram : The Hon'ble Member (A) Shri M.R. Kolhatkar.

Tribunal's Order:

Dt. 1.8.94

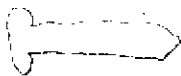
of law in respect of Smt. Subhadrabhai Ahire, first wife of late D.S. Ahire, to enable this office to prepare the case for family pension. Consequent upon that, the applicant has filed a Succession Certificate issued by the Civil Judge, Bhusaval, who after verification of the documents, issued a certificate on behalf of the applicant stating that the applicant is a legal heir of the deceased Shri D. S. Ahire and she is entitled to get the family pension as per the laws, which has been given to the department as back as 1993.


4. In the light of the above, since there is no dispute regarding the claim of the applicant, as the divorced wife has not made any claim in this regard, we find no other option but to release the pensionary benefits to the applicant in accordance with the Succession Certificate issued by the Court of law and it is not open to the Respondents to state that she is not a legally wedded wife, at this stage. They will have to make the payment to the applicant on the basis of the nomination made by the deceased employee, Shri D. S. Ahire. Accordingly, we hereby direct the Respondents to release the pensionary benefits within a period of two months from the date of receipt of this order

5. Applicant has also made a claim for compassionate appointment. The Learned Counsel for the applicant draws our attention that the only ground on which the Respondents rejected the claim for compassionate appointment, is that, for want of legal succession certificate they could not give her compassionate appointment, whereas, the Learned Counsel

for the Respondents submits that the decision may be left at the discretion of the department to decide the matter on merits but in accordance with the law. In the circumstances, I hereby direct the Respondents that if there is any scheme for those who are boarded out on medical grounds, their family members are to be given compassionate appointment, they may decide according to the scheme and also in accordance with the law, within a period of three months. Lastly, regarding quarters, she may be allowed to continue in the quarter till the Respondents take a final decision in the matter regarding giving her compassionate appointment and in case the Respondents hold it against her, she is at liberty to approach this Tribunal, as deemed fit. Regarding regularisation, the same may be done in accordance with the law.

6. In the light of the above, the O.A. is disposed of. No order as to costs.




(B. S. HEGDE)
MEMBER (J).

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