**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 10722 of 2024**

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UNION OF INDIA & ORS.

Versus

LILAVANTIBEN B. SONEGRA

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Appearance:

MR HARSHEEL D SHUKLA(6158) for the Petitioner(s) No. 1,2,3

MS VILAS A PURANI(9038) for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA

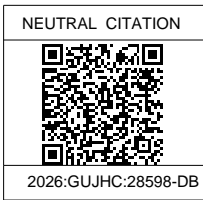
and

HONOURABLE MR.JUSTICE J. L. ODEDRA**Date : 06/04/2026****JUDGMENT****(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)**

1. The father of the respondent was an employee of the railways, who retired on 05.10.1971 on attaining the age of superannuation.
2. Unfortunately, the respondent's marriage which had been contracted during her father's lifetime ended in a failure resulting in a customary divorce being entered into between her and her husband. This divorce occurred on 12.10.1978. In other words, during the lifetime of her father, the respondent's marriage stood dissolved by virtue of the customary divorce.
3. On 07.07.1985, the father of the respondent passed away and as provided under the rules, his wife i.e the mother of



- the respondent, started receiving the family pension.
4. On 01.01.2015, the mother of the respondent, i.e., the wife of the pensioner also passed away.
 5. The respondent, being the divorced daughter of the pensioner, made a claim for payment of family pension on 19.02.2015.
 6. The Railways, by way of a communication dated 02.05.2015, called upon the respondent to furnish a decree of divorce in order to consider her claim for family pension.
 7. Since the Railways sought for a decree of divorce, the respondent-initiated proceedings for divorce and ultimately the Family Court on 01.05.2017, granted her a decree of divorce. It is not in dispute that that in these proceedings, the respondent did categorically aver that her marriage had, in fact, ended by way of customary divorce on 12.10.1978.
 8. On furnishing the decree of the divorce, the Railways, however, proceeded to take the view that the divorce had occurred only in the year 2017, i.e. after the pensioner had passed away in 1978 and hence her claim could not be entertained and it proceeded to reject the same.

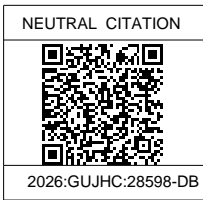


9. The respondent being aggrieved by this rejection, approached the Central Administrative Tribunal (CAT) and the CAT, by the impugned order, has allowed the application and has directed the payment of family pension.
10. The Railways, thereafter, also proceeded to file a Review on the ground that the form that her father, i.e., the pensioner had filled up in relation to the payment of gratuity did not indicate the name of the respondent and, therefore, she was not entitled to family pension. The Tribunal has not acceded to this plea and has rejected the review.
11. As a consequence, the Railways are before this Court, assailing the order of the CAT allowing the application and also rejecting their review.
12. At the outset, it is to be stated here that a Division Bench of this Court in the case of *Union of India vs. Rekhaben D/O Gopal Bhai N. Parmar* decided on 21.12.2021 in Special Civil Application No.1871 of 2021 has declared in a case relating to a Railway employee itself that the law that an employee of the daughter of the Railway employee, who has obtained the customary divorce, is a dependent as provided under the rules and would, therefore, be entitled for grant of family pension. This judgement of the Division



Bench has been accepted by the Railways, inasmuch as, no SLP has been preferred to the Supreme Court.

13. It is also brought to the notice of this Court that two Division Benches of this Court in SCA No.17517 of 2019 and SCA No.1871 of 2021 have taken a similar view that a customary divorce is an accepted mode of dissolution of marriage and, therefore, the employee of the Railways, whose daughter has obtained a customary divorce would be entitled for family pension.
14. In light of this legal position taken by the Division Benches of this Court on more than one occasion, the order of the CAT which fundamentally recognizes this fact and has directed payment of family pension cannot be found fault with.
15. Learned counsel for the Railways, however, sought to putforth an argument that in certain forms, the pensioner had not indicated that the name of the respondent as being his daughter and he, therefore, contended that she would not be entitled to pension.
16. Learned counsel for the respondent, however, was quick to point out that an investigation into the claim for family pension was undertaken by the Railways on the death of



her mother and in these proceedings, the Enquiry Officer has recorded a clear finding that the respondent is indeed the divorced daughter of the pensioner.

17. It is, therefore, clear that in light of this report, (a copy of which is produced at Page No.263), the status of the respondent, as being the divorced daughter of the pensioner cannot be in dispute.
18. In the result, in light of the judgements rendered by the Division Benches of this Court and the established fact that respondent is the divorced daughter of the pensioner, she would be entitled for grant of family pension and the order of the CAT directing the payment of family pension to her will therefore be sustained.
19. The Railways are directed to provide family pension to the the respondent from the date of death of her mother, within a period of three months from the date of receipt of the copy of this order.
20. Consequently, the writ petition is dismissed.

(N.S.SANJAY GOWDA,J)

(J. L. ODEDRA, J)

SUDHIR