



(AFR)
**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE VISHAL DHAGAT**

ON THE 12th OF MAY, 2026

WRIT PETITION No. 1666 of 2022

SMT. JYOTI SHRIVASTAVA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Naveen Dubey - Advocate for the petitioner.

Shri Ved Prakash Tiwari - Govt. Advocate for the State.

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ORDER

Petitioner has filed this writ petition under Article 226 of the Constitution of India challenging order dated 16.12.2021 contained in Annexure P/1 passed by Director General, Home Guards and Civil Defence, Jabalpur. Petitioner is a divorcee and daughter of late Shanker Lal Shrivastava, who was District Commandant in Home Guards and retired on 30.4.2001. Wife of Shanker Lal Shrivastava expired on 8.6.2017. He filed an application to nominate his daughter for family pension which was rejected by impugned order as divorcee was not a dependent under Rule 48 of Madhya Pradesh Civil Services (Pension) Rules, 1976 (hereinafter referred to 'Rules of 1976').

2. Counsel appearing for the petitioner submitted that office



memorandum dated 11.9.2013 was issued by Government of India Ministry of Personnel, P.G. & Pensions, Department of Pension and Pensioners' Welfare wherein it was clarified that dependent divorce daughters are also entitled for family pension of deceased employee subject to fulfillment of conditions of earning or dependency. It is submitted that on basis of said office memorandum benefit to divorcee daughter was granted by Punjab Haryana High Court and also by Apex Court in case of *Khajni Devi Vs. Union of India and others* filed as Annexure P/12 and P/13. It is submitted that similar benefit be extended to petitioner.

3. Government Advocate appearing for the State submitted that case of petitioner was duly considered by impugned order and petitioner was not found to be dependent in accordance with Rule 45 of Rules of 1976. No error can be found in the impugned order by which claim of petitioner was rejected. In view of same, petition may be dismissed.

4. Heard learned counsel for the parties.

5. Relevant provisions of Rules of 1976 for adjudication of dispute are quoted as under:-

Rule 44(5)-Death-cum-retirement gratuity:-

For the purpose of this rule and Rules 45 and 46 'family' in relation to Government servant means :-

(i) Wife in the case of a male Government servant,

(ii) Husband, in the case of a female Government



servant,

(iii) Sons including step sons and adopted sons,

(iv) Unmarried daughters including step daughters and adopted daughters,

(v) Widowed daughters including step daughters and adopted daughters,

(vi) Father, including adoptive parents in the case of individuals,

(vii) Mother, whose personal law permits adoption,

(viii) Brothers below the age of eighteen years including step brothers,

(ix) Unmarried sisters and widowed sisters including step sisters,

(x) Married daughters, and

(xi) Children of pre-deceased son.

Rule 48(11): For the purposes of this rule, the expression "family" in relation to a Government servant means, the family as defined in clauses (i) to (xi) of sub-rule (5) of Rule 44.

6. On going through the aforesaid provisions, it is found that divorcee daughter is not included in definition of family. However, married daughters are included in definition of family under Rule 44(5) of Rules of 1976. In view of same, if divorce daughters are not included within definition of family then fundamental rights guaranteed



under Article 14 of the Constitution of India shall be violated as there is no difference between unmarried daughter, married daughter or divorcee daughter. Married daughter is included as family member, therefore, there is no reason to exclude divorce daughter from definition of family. Since divorcee was not included in definition of family, therefore, claim of petitioner was rejected. Rule 44(5) of Rules of 1976 includes unmarried daughters, including step daughters and adopted daughters, widow daughters including step daughters and adopted daughters, unmarried sisters and widow sisters including step sisters and married daughters. Therefore, divorcee daughter is also required to be treated equally with daughters mentioned in Rule 44(5) of Rules of 1976 otherwise it would violate rights under Article 14 of the Constitution of India.

7. As per Rule 48(5)(a) of Rules of 1976, family pension is to be granted to father, mother, eldest surviving brother below 18 years, eldest surviving unmarried sister and eldest surviving widow sister without evidence of dependency but for rest of the family members evidence is required to be furnished to show that they are dependent upon the deceased Govt. employee.

8. In view of same, impugned order passed by respondent no.2 dated 16.12.2021 is **quashed** as same is violation of Article 14 of the Constitution of India. Respondents are directed to reconsider the case of petitioner and if it is found that she is dependent upon deceased Govt.



servant and is not having independent source of income then application for grant of family pension be allowed. Orders be passed by competent authority i.e. Director General Home Guard and Civil Defence within a period of 90 days from the date of receipt of fresh representation along with evidence.

9. Writ Petition is **disposed off**.

(VISHAL DHAGAT)
JUDGE

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