

B. Suguna W/o B. Sudarshan Vs Smt. Bolla Malathi And Ors

Court: Bombay High Court

Date of Decision: Feb. 11, 2025

Acts Referred: General Provident Fund (Central Services) Rules, 1960 " Rule 5, 5(a), 5(b), 5(5), 5(5)(a), 5(5)(b), 5(6), 33, 33(i)(a), 33(i)(b), 33(ii)

Hon'ble Judges: A. S. Chandurkar, J; M. M. Sathaye, J

Bench: Division Bench

Advocate: A.H. Fatangare, Akshay Doctor, Karan Jagtap, Parag Sawant, Sangharsha Shakya, P.R. Shakya, Aryan Parab, Priyanka Master, Aniruddha A. Garge

Final Decision: Allowed

Judgement

''''

M.M. Sathaye, J",,,,,

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.,,,,

2. The Petitioner, a 79 year old mother, is challenging the judgment and order dated 12.10.2023 passed by the learned Member, Central Administrative",,,,

Tribunal, Mumbai Bench, Mumbai (for short, "the Tribunal") in Original Application No. 255 of 2022. By the said impugned order, the application",,,,

of Respondent No.1 (deceased son's widow) is partly allowed directing Respondent Nos.2 to 4 to release the General Provident Fund (GPF),,,,

amount in equal shares to the Petitioner and Respondent No.1 i.e. 50% each.,,,,

3. Few facts shorn of unnecessary details, are as under. The Petitioner is the mother and the Respondent No.1 is the widow of late Bolla Mohan",,,,

(the Deceased, for short). The Deceased was working with the Defence Account Department (employee of the Union of India) and at the",,,,

time of joining services, he nominated his mother (Petitioner) for GPF, Central Government Employees Group Insurance Scheme (CGEGIS) and for",,,,

Death cum Retirement Gratuity (DCRG). On 29.02.2000, he submitted the nomination form in accordance with applicable rules. On 20.06.2003, the",,,,

Deceased married with Respondent No.1 and after marriage, nominated her for CGEGIS and DCRG. It is an admitted fact that the Deceased did not",,,,

nominate Respondent No.1 specifically for GPF. On 04.07.2021, the Deceased expired while in service, and the terminal benefits like Encashment of",,,,

Leave, CGEGIS, DCRG, Medical Reimbursement have been paid to Respondent No.1 (widow) totaling to Rs.60,00,000/-. Respondent No.1 (widow)",,,,

is also getting monthly Family Pension Rs.55,000/- per month who claimed employment on compassionate ground. On 30.07.2021 Respondent No.1",,,,

(widow) applied for receiving GPF amount claiming to be only legitimate family member. By order dated 09-10.08.2021 and 09.09.2021, Respondent",,,,

Nos.2 to 4 informed the Respondent No.1 (widow) that since the Petitioner (mother) is nominated for GPF, the said amount can be claimed only by",,,,

the Petitioner. Respondent No.1 was asked to obtain succession to claim the said amount. Respondent No.1 thereafter, again made application for",,,,

disbursal of GPF amount claiming that nomination of the Petitioner is not valid after the marriage of the Deceased with Respondent No.1. Respondent",,,,

No.1 therefore filed the said Original Application before the Tribunal in which the impugned judgment/order is passed.,,,,

4. Learned counsel for the Petitioner submitted that the applicable rules do not provide for cancellation of the Petitioner's nomination automatically",,,,

and since the Deceased never changed the Petitioner's nomination for GPF amount, mere event of the Deceased getting married and acquiring",,,,

family will not invalidate Petitioner's nomination. He has invited the Court's attention to the concerned Nomination Form produced on record",,,,

as well as Rule 5 about nomination from the General Provident Fund (Central Services) Rules, 1960 (for short, the said Rules). He submits",,,,

that Rules 5(5) and 5(6) of the said Rules are not properly appreciated by the Tribunal and Respondent No.1 cannot be held entitled for 50% of the",,,,

GPF amount.,,,,

5. Per contra, learned counsel for Respondent No.1 (widow) submitted that the nomination form itself provides in the column of 'contingency' that on acquiring family, the nomination shall become invalid and therefore on the marriage of Respondent No.1, the nomination in favour of the",,,,

Petitioner has authentically come to an end and therefore Respondent No. 1 is entitled to the amount of GPF, being only family. He has relied upon",,,,

Rule 33 of the said Rules along with its proviso.,,,,

6. On 22.04.2024, the co-ordinate bench of this Court directed the entire amount of GPF of the Deceased to be deposited in this Court. However, we",,,,

are informed by learned counsel for Respondent Nos.2 to 4, by referring to the affidavit-in-rely dated 30.12.2024, that 50% of the GPF amount has",,,,

been already released in favour of Respondent No.1 to avoid contempt of the impugned Order and the remaining 50% has been deposited in this",,,,

Court. Be that as it may.,,,,

7. We have considered rival submissions and perused the record.,,,,

8. The Tribunal has considered sub rule 5(a), 5(b) along with its proviso and sub-rule (6) of Rule 5 of the said Rules and has come to the conclusion" ,,,,

that the nomination made by the Deceased in favour of the Petitioner is not void-ab-initio, since the Deceased has not formally made a fresh" ,,,,

nomination. Despite holding this, the Tribunal has held that Respondent No.1 is entitled to 50% of the GPF amount relying on Rule 33 of the said" ,,,,

Rules.,,,,

9. It would be appropriate to consider the applicable rules first. Rules 5(5) and 5(6) of the said Rules read as under :,,,

“ Rule 5: NOMINATION ,,,,

X ,,,,

X ,,,,

(5) A subscriber may provide in a nomination- ,,,,

(a) in respect of any specified nominee, that in the event of his predeceasing the subscriber, the right conferred upon that nominee shall pass to such other person or" ,,,,

persons as may be specified in the nomination, provided that such other person or persons shall, if the subscriber has other members of his family, be such other" ,,,,

member or members. Where the subscriber confers such a right on more than one person under this clause, he shall specify the amount or share payable to each of" ,,,,

such persons in such a manner as to cover the whole of the amount payable to the nominee.,,,,

(b) that the nomination shall become invalid in the event of the happening of a contingency specified therein:,,,

Provided that if at the time of making the nomination the subscriber has only one member of the family, he shall provide in the nomination that the right conferred" ,,,,

upon the alternate nominee under Clause (a) shall become invalid in the event of his subsequently acquiring other member or members in his family.,,,,

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under Clause ,,,,

(a) of sub-rule (5) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of Clause (b) of sub-rule (5) or the proviso ,,,,

thereto, the subscriber shall send to the Accounts Officer a notice in writing cancelling the nomination, together with a fresh nomination made in accordance with the" ,,,,

provisions of this rule. “ ,,,,

[Emphasis supplied] ,,,,

Rule 33 of the said Rules reads as under :,,,

“ RULE 33 PROCEDURE ON DEATH OF A SUBSCRIBER ,,,,

On the death of a subscriber before the amount standing to his credit has become payable, or where the amount has become payable, before payment has been made:" ,,,,

(i) When the subscriber leaves a family- ,,,,

(a) if a nomination made by the subscriber in accordance with the provisions of Rule 5 in favour of a member or members of his family subsists, the amount standing",,,,

to his credit in the Fund or the part thereof to which the nomination relates shall become payable to his nominee or nominees in the proportion specified in the,,,,,

nomination:,,,,,

(b) if no such nomination in favour of a member or members of the family of the subscriber subsists, or if sech nomination relates only to a part of the amount",,,,

standing to his credit in the Fund, the whole amount or the part thereof to which the nomination does not relate, as the case may be, shall, notwithstanding any",,,,

nomination purporting to be in favour of any person or persons other than a member or members of his family, become payable to the members of his family in equal",,,,

shares:,,,,,

Provided that no share shall be payable to-,,,,,

(1) sons who have attained majority;,,,,,

(2) Sons of a deceased son who have attained majority;,,,,,

(3) married daughters whose husbands are alive;,,,,,

(4) married daughters of a deceased son whose husbands are alive," ,,,,

NameÃ, of Ã, nomineeÃ, inÃ,

the event of subscriber death.", "Relationship

with the

subscriberÃ, "Age, "Contingencies on

the happening of

which the

nomination shall

become invalid", "Name, address & relationship

of person(s) If any ... the right

of the nominee shall pass in

the event of his death before

the subscriber.

B. SUGUNA H.NO.12-11- 475,

WAR ASIGUDA

SECUNDERABAD - 61(A-D)",MOTHER,57,"On acquiring

family", "(Brother) B. SUGUNA

H.NO.12-11-475, WAR

ASIGUDA

SECUNDERABAD - 61