



10

1

IN THE COURT OF VI CIVIL JUDGE JUNIOR DIVISION, DURG

(C.G.)

[Presided by: Sajal Jain]

CIVIL SUIT NO. 236-A/2023

CNR NO. CGDU02-008932-2023

Smt. Ambika Bai, Wd/o Late Sevak Ram,  
Aged about 65 years,  
R/o Camp-1, Bhilai, District-Durg (C.G.)



... PLAINTIFF

VERSUS

1. The Regional Provident Fund Commissioner  
(Pension), Employees' Provident  
Fund Organisation, Regional Office, Raipur (C.G.)

2. Shri G. Rajesh, Dy. General Manager  
(Finance & Accounts),  
Bhilai Steel Plant, Bhilai, District-Durg (C.G.)

... DEFENDANTS

JUDGMENT

Date of Institution of Suit : 12.07.2023

Date of Conclusion of Arguments : 18.06.2026

Date of Judgment : 18.06.2026

I. PLAINTIFF

1. **Case of the Plaintiff:** Late Sevak Ram joined Bhilai Steel Plant in 1973. He took Voluntary Retirement on 30.09.1999. It is the specific case of the Plaintiff that P.P.O. No. 86073 was issued and pension was disbursed to Late Sevak Ram during his lifetime. He died on 14.11.2012. The Plaintiff, being his widow, claims family pension with effect from 15.11.2012 along with ROC-2 amount.

II. WRITTEN STATEMENT

2. **Case of the Defendants:** Defendant No.1 discontinued pension on the basis of Ex.D-07 dated 23.12.2011, alleging impersonation.

(सजल सिंह)  
अध्यक्ष न्यायाधीश कनिष्ठ अणी,  
दुर्र, जिला-दुर्र (म.प्र.)

Smt. Ambika Bai Vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

**3. Admissions on Record:** The Written Statements do not traverse the employment, Voluntary Retirement on **30.09.1999**, or death on **14.11.2012**. Non-traverse amounts to admission under Order VIII Rule 5, Code of Civil Procedure, 1908 read with Section 14, Bharatiya Sakshya Adhiniyam, 2023. Defendant No.2, in his Written Statement and through Defendant Witness No.1, admits the Voluntary Retirement on **30.09.1999**. This is a judicial admission under Section 15, Bharatiya Sakshya Adhiniyam, 2023.

### III. ISSUES FOR DETERMINATION

[Settled by this Court on **05.11.2024**]

1. Whether the Plaintiff is entitled to receive family pension and other amounts of Late Sevak Ram along with arrears from **14.11.2012**?
2. Whether Late Sevak Ram was employed in Bhilai Steel Plant in the name and identity of his elder brother?

(सज्जित जेठे)  
अधिवक्ता  
मुंबई, जिला-

3. Whether an application dated **12.12.2011**, admitting that Late Sevak Ram worked in the name of his brother, was submitted by him before Defendant No.1?
4. Whether the present suit is liable to be dismissed as being barred by limitation?
5. Relief?

#### IV. EVIDENCE ON RECORD — APPRAISED

[Findings are based solely on testimony of witnesses and documents proved in accordance with the Bharatiya Sakshya Adhiniyam, 2023]

#### **A. PLAINTIFF'S EVIDENCE**

1. Ex.P-01 dated **06.11.2020**: Reply under Right to Information Act. Relevant under Section 3, B.S.A., 2023, to determine the date of knowledge for Issue No.4.
2. Ex.P-03 dated **03.12.2020** and Ex.P-16 dated 25.10.2021: Communications of Defendant No.1. They constitute admissions under Section 15, B.S.A., 2023, of

रजम बाबाय नारायण कापूर भोरे  
डुम, जिला-डुम (छ.प्र.)



Smt. Ambika Bai Vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

the issuance of P.P.O. No. 86073. They are also acknowledgments under Section 18, Limitation Act, 1963.

3. Ex.P-09 dated **21.01.2021**: Communication of Defendant No.2. It is an admission under Section 15, B.S.A., 2023, that Late Sevak Ram took Voluntary Retirement on 30.09.1999.

4. Ex.P-22: Death Certificate dated **14.11.2012**. A public document under Section 74, B.S.A., 2023.

5. Ex.P-24: Service Certificate. Proves 26 years of qualifying service from 1973 to 1999.

6. Testimony of Plaintiff Witness No.1, Smt. Ambika Bai: She deposed that her husband joined in 1973, took Voluntary Retirement on 30.09.1999, and P.P.O. No. 86073 was issued. She further deposed that Chunni Lal was employed in Allahabad Bank. In cross-examination, Defendant No.2 did not challenge her deposition regarding the date of Voluntary Retirement, the issuance

of P.P.O., or the 26 years of service. A fact not subjected to cross-examination is deemed admitted under Section 138, B.S.A., 2023.

7. Testimony of Plaintiff Witness No.2, Atul Mandavi: He deposed that the families were separate and Chunni Lal was employed in Allahabad Bank. Defendant No.2 elected to offer no cross-examination whatsoever. The entire testimony stands admitted under Section 15, B.S.A., 2023.

#### B. DEFENDANTS' EVIDENCE

8. Ex.D-05 & Ex.D-06: Filed by Defendant No.1. They prove 26 years of service by Late Sevak Ram and are admissions under Section 15, B.S.A., 2023, binding on Defendant No.1.

9. Ex.D-07 dated 23.12.2011: A photocopy. It recites the words "dar ke maare". The original was never produced.

(संलग्नक-1)  
पञ्चम दस्तावेज जयपुरी कानून मेसी,  
दुर, जिला-दुर (स.ग.)

Smt. Ambika Bai Vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

10. Testimony of Defendant Witness No.1 for Defendant No.1, Shri Motilal Sahu, Section Supervisor, aged 56 years, recorded on **25.08.2025**:

10.1. He admitted that he is posted in R.P.F.C. Office, Raipur since 1994 and is presently Section Supervisor.

10.2. He admitted that letter dated **05.03.2024** Ex.D-01 was sent by Bhilai Steel Plant to his department.

10.3. He admitted that Steel Authority of India circular dated **31.01.2011** Ex.D-03 is related to Employees' Pension Scheme.

10.4. He admitted that Sevak Ram's death certificate Ex.D-04 is on record.

10.5. He admitted that application dated **18.09.2020** of Ambika Bai is Ex.P-06 and that Sevak Ram's letter dated **23.12.2011** is Ex.D-07. He deposed that based on Ex.D-07, pension case of Sevak Ram was rejected.

10.6. In cross-examination by counsel for Plaintiff, he admitted that Late Sevak Ram was an employee of Bhilai Steel Plant. He admitted that Sevak Ram died on 14.11.2012. He admitted that because Sevak Ram was an

(सज्जित जग)  
बलराम बलवहार न्यायाधीश-प्रथम  
इ.स. विभाग-3



Smt. Ambika Bai vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

employee of Bhilai Steel Plant, his pension case was processed.

10.7. He admitted that in departmental replies Ex.P-03, 06, 08, 16, there is no mention that Sevak Ram worked in Bhilai Steel Plant in the name of his brother during his lifetime.

10.8. He admitted that his department sanctioned the pension case and issued P.P.O. No. 86073 on 30.11.2011, and on that basis pension was paid to Late Sevak Ram during his lifetime.

10.9. He admitted that as per documents available with his department, after the death of Sevak Ram, the Plaintiff Ambika Bai is entitled to receive Rs. 63,200/- as per ROC-2. He admitted that on death of original pensioner, the nominee is entitled to pension as per ROC-2. He admitted that as per departmental records, Plaintiff Ambika Bai has been nominated after death of Sevak Ram.

10.10. He admitted that an Enforcement Officer, Shri Safique Ahmad Qureshi, was appointed to inquire into Ex.D-07, but no document regarding inquiry conducted

पञ्चम प्रमाणित आवासीय कर्मचारी  
श्री. विना-श्री (क.ग.)



Smt. Ambika Bai Vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

(14)

there was no mention that Late Sevak Ram was working in Bhilai Steel Plant in the name of his brother. He admitted that pension is sanctioned on the basis of documents submitted by the employer.

10.15. He admitted that no complaint was filed in any police station regarding working in the name of brother. He admitted that the Plaintiff Ambika Bai sent letters and necessary documents to R.P.F.C. several times. He admitted that R.P.F.C. conducted no inquiry on any letter or document sent by Ambika Bai. He denied knowledge whether Ex.D-07 is forged.

11. Defendant No.1: Adduced no other oral evidence. An adverse inference under Section 114, B.S.A., 2023, is liable to be drawn for withholding the best evidence.

#### V. REASONS FOR DECISION

ISSUE NO.2 & 3: THE PLEA OF FRAUD AND THE ALLEGED  
APPLICATION DATED 12.12.2011

समयावधि में न्यायाधीश/कनिष्ठ न्यायाधीश,  
जिला-दुर्ग (व.ग.)

Smt. Ambika B.  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

on Ex.D-07 is available with him. He voluntarily stated he has no information in this regard.

10.11. He admitted that the documents annexed to Ex.D-07 — 1. Photocopy of V.R., 2. Photocopy of Bank Passbook — are not annexed with Ex.D-07. He admitted that the Inquiry Officer gave no report to his department after examining the signature of Sevak Ram on Ex.D-07. He admitted that he has not produced any document to prove that Ex.D-07 bears the signature of Sevak Ram.

10.12. He admitted that Ex.D-02 records that Service Book of Sevak Ram, Personnel No. 30948, Ex-ACW-I Technician, ACW Department, is not available and that he took VRS on 30.09.1999.

10.13. He admitted that when pension case of Late Sevak Ram was sanctioned, Bhilai Steel Plant had provided complete documents to the P.F. office, and at that time Sevak Ram was alive.

10.14. He admitted that P.P.O. No. 86073 was issued by R.P.F.C. Raipur on 30.11.2011 on the basis of documents provided by Bhilai Steel Plant. He admitted that in those documents sent by BSP to R.P.F.C. Raipur,

सदरम आदेशानुसार कार्यवाही करित गेली,  
दुर्ग, जिला-दुर्ग (छ.ग.)

Smt. Ambika Bai Vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

1. The defence is founded solely on Ex.D-07. The said document is liable to be discarded in limine for the following reasons:

2. It is inadmissible and unproved under the B.S.A., 2023:

2.1. Ex.D-07 is a photocopy. The original was never produced. No notice under Section 64, B.S.A., 2023, was issued. No foundation for leading secondary evidence under Section 63, B.S.A., 2023, was laid. It is, therefore, inadmissible under Section 59, B.S.A., 2023.

2.2. It has not been proved in the manner required by Section 61, B.S.A., 2023. No witness from Defendant No.1 was examined to prove its execution. Defendant Witness No.1 for Defendant No.1, Shri Motilal Sahu, admitted that he has produced no document to prove that Ex.D-07 bears the signature of Sevak Ram and that the Inquiry Officer gave no report. An unproved document cannot be considered under Section 62, B.S.A., 2023. The consequence is that no application dated 12.12.2011

सुप्रीम कोर्ट  
नया दिल्ली  
12.12.2011



stands proved on record. Issue No.3 is answered in the Negative.

3. It is void for Coercion under the Indian Contract Act, 1872:

3.1. The document recites "dar ke maare" — out of fear.

3.2. Paragraph 8 of the Written Statement of Defendant No.1 admits it was written "due to fear of legal action".

3.3. This constitutes "Coercion" as defined in Section 15 of the Indian Contract Act, 1872.

3.4. Under Section 19 of the I.C.A., 1872, consent caused by coercion renders the agreement voidable at the option of the party coerced. Ex.D-07, being a product of coercion, is void ab initio and a nullity. It cannot affect legal rights.

3.5. Further, a confession caused by threat is irrelevant under Section 23, B.S.A., 2023. Ex.D-07 is, therefore, legally incompetent to establish fraud.



Smt. Ambika Bai Vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

4. The plea of impersonation is demolished by testimony and admissions:

4.1. The un-rebutted testimony of Plaintiff Witness No.2 establishes that Chunni Lal was employed in Allahabad Bank. The failure of Defendant No.2 to cross-examine Plaintiff Witness No.2 amounts to an admission under Section 15, B.S.A., 2023, that the plea of impersonation is false.

4.2. Defendant Witness No.1 for Defendant No.1, Shri Motilal Sahu, admitted that in departmental replies Ex.P-03, 06, 08, 16, there is no mention that Sevak Ram worked in Bhilai Steel Plant in the name of his brother during his lifetime. He further admitted that documents sent by Bhilai Steel Plant for sanction of pension did not mention that Late Sevak Ram was working in the name of his brother.

4.3. The admissions of Defendant Witness No.1 and the documents Ex.D-05, Ex.D-06, Ex.P-09, and Ex.P-24 conclusively prove 26 years of service. The proposition that a person could serve for 26 years as an impostor is untenable and is rejected.

सदर अग्रिम  
मुद्रा, जिला-मुद्रा (मुद्रा)

5. Finding: The Defendants have failed to discharge the burden of proving fraud. Issue No.2 is answered in the Negative.

#### ISSUE NO.4: LIMITATION

6. The law is settled: Pension is "property" under Article 300A of the Constitution. Its illegal stoppage is a continuing wrong, giving rise to a recurring cause of action. Deokinandan Prasad v. State of Bihar, (1971) 2 SCC 330; Union of India v. Tarsem Singh, (2008) 8 SCC 648.

7. Finding: The stoppage was effected by a mere internal noting dated 23.12.2011, without any order under Section 11 of the EPF & M.P. Act, 1952. It is void. Knowledge was acquired on 06.11.2020. The suit is within limitation. Ex.P-03 and Ex.P-16 are acknowledgments under Section 18, Limitation Act. Issue No.4 is answered in the Negative.

  
दुर्ग, जिला-दुर्ग (स.प.)

Smt. Ambika Bai Vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

ISSUE NO.1: ENTITLEMENT TO FAMILY PENSION FROM  
14.11.2012

8. The entitlement flows from Para 16(5)(a) of the  
Employees' Pension Scheme, 1995.

9. The stoppage based on Ex.D-07 is illegal because the  
communication of Ex.D-07 was never complete under  
Section 4 of the Indian Contract Act, 1872. The reasons  
are drawn from the record and admissions of Defendant  
Witness No.1:

9.1. Section 4, Indian Contract Act, 1872 —  
Communication when complete: Section 4 provides that  
the communication of a proposal is complete when it  
comes to the knowledge of the person to whom it is  
made. Applying this principle, any unilateral statement  
affecting civil rights must be communicated to the person  
concerned and must be acted upon by a competent  
authority to become complete and operative.

पठन बाबुशार या.  
मुंबई, जिला-मुंबई (ड.स.)

9.2. The document is void: Ex.D-07 is void for coercion under Section 19, I.C.A., 1872, as admitted in the Written Statement. A void document cannot constitute a complete communication under Section 4, I.C.A., 1872. It is non est.

9.3. No communication to pensioner: Ex.D-07 was never communicated to Late Sevak Ram. No show-cause notice was issued to him between 23.12.2011 and his death on 14.11.2012. In the absence of communication, the process contemplated by Section 4, I.C.A., 1872 was never initiated. The action is violative of the audi alteram partem rule and Article 14 of the Constitution. *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

9.4. No statutory order passed: No inquiry under Section 7A of the EPF & M.P. Act, 1952, was conducted. No order under Section 7A or 8B was passed. Defendant Witness No.1, Shri Motilal Sahu, admitted that no document regarding inquiry on Ex.D-07 is available and no report was given by the Enforcement Officer. The Hon'ble Supreme Court in *Organo Chemical Industries v. Union of India*, (1979) 4 SCC 573, has held that a

  
राम बहादुर झा (राम बहादुर झा)  
डि. जिला-दुर्ग (उ.प्र.)



Smt. Ambika Bai Vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

original pensioner, the nominee is entitled to pension as per ROC-2.

9.8. Conduct of Defendant No.1 negates stoppage: Not a single rupee was deducted or recovered till his death on 14.11.2012. This conduct, relevant under Section 6, B.S.A., 2023, is conclusive proof that Defendant No.1 did not treat Ex.D-07 as a completed and actionable communication during the lifetime of the pensioner.

10. The inaction of Defendant No.1 from 23.12.2011 to 14.11.2012 is an admission by conduct, under Section 6, B.S.A., 2023, that Ex.D-07 had no legal force. Bishwanath Prasad Singh v. Rajendra Prasad, (2006) 4 SCC 432.

11. Finding: The communication of Ex.D-07 was inchoate and never became complete under Section 4, I.C.A., 1872. The stoppage was illegal and void. The Voluntary Retirement on 30.09.1999 is admitted. 26 years of service is proved. P.P.O. No. 86073 was issued on 30.11.2011. Pension was paid to Late Sevak Ram during

Section 7A inquiry is a sine qua non. Without a statutory order, there was no completed communication of cancellation to bind the pensioner under Section 4, I.C.A., 1872.

9.5. No final decision to pensioner's knowledge: No order cancelling the P.P.O. was ever communicated to Late Sevak Ram during his lifetime. He died on 14.11.2012 with the legal presumption that his P.P.O. was valid and subsisting. Thus, no "communication" within the meaning of Section 4, I.C.A., 1872 ever became complete against him.

9.6. Admission of issuance and payment of pension: Defendant Witness No.1, Shri Motilal Sahu, admitted that his department sanctioned the pension case and issued P.P.O. No. 86073 on 30.11.2011, and on that basis pension was paid to Late Sevak Ram during his lifetime.

9.7. Admission of entitlement of Plaintiff: Defendant Witness No.1 admitted that as per documents available, after the death of Sevak Ram, the Plaintiff Ambika Bai is entitled to receive Rs. 63,200/- as per ROC-2 and that she has been nominated. He admitted that on death of

Smt. Ambika Bai Vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

his lifetime. Death on 14.11.2012 is proved. The Plaintiff is the legally wedded widow and nominated beneficiary. Issue No.1 is answered in the Affirmative.

#### ISSUE NO.5: RELIEF

12. The Plaintiff has proved her case. She is entitled to the reliefs claimed.

13. On the question of recovery: The Defendants have not pleaded recovery. There is no counter-claim. No evidence of excess payment was led. The said communication, Ex.D-07, is incomplete under Section 4, Indian Contract Act, 1872 and was obtained under coercion. Therefore, it cannot create any legal liability or form the basis of recovery. Further, no determination under Section 7A or recovery order under Section 8B of the EPF & M.P. Act, 1952 was passed. Defendant Witness No.1 admitted that no inquiry was conducted on Ex.D-07 and no report exists. In absence of pleading, proof, and statutory determination, no recovery can be ordered. Tropical Agro



मुख्य न्यायाधीश  
दुर्ग, जिला-दुर्ग (उ.प्र.)



v. Yogi Agrochem, (2021) 11 SCC 693. If Defendant No.1 claims any amount, it must initiate separate proceedings under the Act after following due process.

ORDER

1. It is hereby declared that the Plaintiff, Smt. Ambika Bai, is entitled to family pension under P.P.O. No. 86073 with effect from 15.11.2012. It is further declared that the Plaintiff is also entitled to recover arrears of her deceased husband Late Laxman Prasad's member-pension for the period from the date it was illegally stopped by Defendant No. 1 till 14.11.2012, i.e., one day prior to commencement of her widow pension, as per EPS, 1995.
2. Defendant No.1, the Regional P.F. Commissioner, Raipur, is directed to pay the arrears of family pension from 15.11.2012 till the date of actual payment, within a period of 60 days from 18.06.2026.

  
बलम बाबुलाल - अध्यक्ष, जिला-दुर्ग (छ.प्र.)



Smt. Ambika Bai Vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

3. Defendant No.1 is further directed to pay the ROC-2 amount of Rs. 63,200/- to the Plaintiff within a period of 60 days from 18.06.2026, as admitted by Defendant Witness No.1.
4. Defendant No.1 shall commence and continue the disbursement of monthly family pension to the Plaintiff from the next month onwards, in strict accordance with the Employees' Pension Scheme, 1995.
5. No order as to recovery is passed, as none was pleaded or proved, and the communication relied upon by Defendant No.1 is incomplete under Section 4, Indian Contract Act, 1872, vitiated by coercion, and not supported by any inquiry or statutory order.
6. No order as to costs.
7. The suit is here by allowed. All the application in this case whatever is pending shall be deemed as decided.
8. Decree to be drawn accordingly.

Smt. Ambika Bai vs  
Regional Provident Fund Commissioner and other  
Civil Suit No. 236/A/ 2023  
CGDU02-008932-2023

Judgment passed in open Court on this 18th day of

June, 2026.

(Sajal Jain)

VI Civil Judge Junior Division

Durg (C.G.)

