

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO. 40841 OF 2014

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ORDER:

The writ petitioner herein seeks a *Writ of Mandamus* for declaring the action of the respondents 1 & 2 namely the Chief General Manager, Singareni Collieries Company Limited and its Superintendent of Mine (Office) respectively in not withholding the retirement benefits of the third respondent for which purpose a representation is said to have been submitted by the petitioner on 23.12.2014, as illegal.

The petitioner herein claims the relationship of wife of the third respondent. The third respondent was working as Assistant Superintendent, Spl. Grade at Godavarikhani 1 Incline. It is also the case of the petitioner that the first wife of the third respondent died on 19.06.1991 and thereafter, he married the writ petitioner. But however, the third respondent had been harassing her for securing additional dowry. In those circumstances, the petitioner appears to have filed civil suit O.S.No.53 of 1996 on the file of the Senior Civil Judge, Karimnagar, claiming maintenance and the said suit was decreed on 16.07.2001 directing the third respondent to pay maintenance to her at Rs.1,000/- and Rs.500/- to her son. The third respondent carried the matter in appeal by instituting A.S.No.2862 of 2001 before this Court and it appears that this Court directed the third respondent to deposit an amount of Rs.50,000/- as arrears of maintenance and also directed him to pay maintenance continuously by its order dated 04.12.2001 in CMP.No.22417 of 2001. The said first appeal is still pending.

It was the further case of the petitioner that the third respondent has no respect for law and he had failed to comply with the orders of this Court. It was her further case that a Domestic Violence

Case No.3 of 2009 was filed by her on the file of the Additional Judicial First Class Magistrate at Karimnagar. In view of these adverse circumstances and backdrop against the third respondent, the present writ petition came to be instituted. The learned Standing Counsel Sri Nandigama Krishna Rao who accepted notice on behalf of the respondents 1 & 2 would submit that the Singareni Collieries Company Limited is an establishment covered by the Contributory Provident Fund Scheme. Consequently, along with the employee, the employer was also required to compulsorily contribute certain percentage of the salary and allowances payable to each employee every month. Any delay in settling the provident fund benefits would result in payment of the same with interest as a measure of compensation. Therefore, the delay in settling the terminal benefits such as gratuity and payment of provident fund would visit the respondents 1 & 2 quite unnecessarily with civil and evil consequences. Therefore, the writ as prayed for cannot be granted. However, if there is a facility of encashment of earned leave surrendered, such an amount need not be paid immediately so that the process to recover the maintenance arrears towards the petitioner by the third respondent can be implemented. Therefore, for a maximum period of two months, the encashment of earned leave component may not be disbursed to the third respondent only. However, it shall be open to the petitioner to secure execution of any decree for realization of the arrears of maintenance.

The writ petition stands disposed of with this order.

Consequently, miscellaneous applications pending shall also stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

21.01.2015
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