

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

W.P.No. 25201 OF 2015

Between:

The State of Andhra Pradesh, represented by its Secretary, Printing and
Publication Department, Secretariat, Hyderabad and another.

....Petitioners

Vs.

D. Manjula, W/o Late D. Anjaneyulu, H.No.77/124/10-55-B, Bhagvan Nagar,
Kallur Estate, Kurnoor, and two others.

....Respondents

DATE OF JUDGMENT PRONOUNCED: 11.08.2015

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SUBMITTED FOR APPROVAL:

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**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE MRS. JUSTICE ANIS**

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1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? Yes/No
 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? Yes/No
 3. Whether Their Lordship wish to see the
fair copy of the Judgment? Yes/No

· **THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE SMT JUSTICE ANIS**

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....Respondents

! Counsel for the petitioners : Government Pleader for Services (AP).

^ Counsel for the Respondents : NA

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> HEAD NOTE:

? Cases referred

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE SMT JUSTICE ANIS**

W.P.No.25201 of 2015

ORDER:

(per Hon'ble Sri Justice Nooty Ramamohana Rao)

The heartless officers of the Government of Andhra Pradesh are the petitioners before us in this writ petition.

The husband of the 1st respondent herein, by name Sri D. Anjaneyulu, while working as a Binder with the Government Regional Press, Kurnool, died on 26-11-2013. Obviously and we assume it to be so, the said deceased employee D. Anjaneyulu has put in requisite length qualifying service to the Government of Andhra Pradesh to earn eligibility for payment of pension. Such of those employees, who have earned the eligibility for securing pension, when die leaving behind a spouse, the spouse is liable to be paid family pension (Rule 50 of the Andhra Pradesh Revised Pension Rules, 1980). It appears that the 1st respondent herein, in the company of her son, the 2nd respondent, who is said to be an unemployed young individual, has submitted papers for securing payment of family pension and also settlement of all other terminal benefits. The mistake committed by the 1st and the 2nd respondents herein appears to be that an appointment was also sought for in favour of the 2nd respondent, son of the deceased employee, under the "Compassionate Appointment Scheme". The troubles faced by the 1st and the 2nd respondents have not evoked the necessary sympathy from the officers of the State Government. The reason for this attitude appears to be that during the life time of the

employee, i.e., Sri D. Anjaneyulu, his social status certificate as a member of Scheduled Castes has been cancelled by the competent authority. Sri D. Anjaneyulu carried the said matter by way of a writ petition to this Court i.e. W.P.No.10477 of 2006. That writ petition was entertained by this Court and an appropriate interim order was also passed therein. As a consequence of which, no penal action could be taken against Sri D. Anjaneyulu during his life time. Possibly, the cause in the aforesaid writ petition may have abated upon his death, but that would be a matter for the 1st and the 2nd respondents to consider and we are not required to pronounce an opinion thereon.

But, however, the pendency of that writ petition or for that matter, the cloud which hung over the head of Sri D. Anjaneyulu, during his life time regarding his social status claim, could not have detained the authority competent from releasing and paying the family pension for his widow. Similarly, the other terminal benefit, namely, Death-cum-Retirement Gratuity also could not have been held back for want of clearance of the disputed social status claim of Sri D. Anjaneyulu. This Court as well as the Supreme Court have been consistently pointing out that payment of Pension and payment of Death-cum-Retirement Gratuity, are not acts of charity or bounty on the part of the State Government concerned. Such payments are made in recognition of the services rendered by the individual concerned during his best years. Payment of Pension was recognized as a case of deferred payment due for the services rendered. If pension has got to be denied to an individual, who ceases to be a government employee, an appropriate proceeding should have been initiated in accordance with Rule-9 of the Andhra Pradesh Revised Pension Rules, 1980.

In the instant case, no such proceeding, perhaps, could have been initiated or could have been even contemplated as no one would have ever expected that the said Sri D. Anjaneyulu would die suddenly on 26-11-2013. Therefore, the officers representing

the petitioners herein should have applied their mind and ought to have sanctioned the family pension to the widow of the deceased Sri D. Anjaneyulu. The grievance nurtured by the petitioners herein against the claim of social status made by Sri D. Anjaneyulu cannot be extended in the matter of settlement of family pension in favour of the widow of the said individual. It is a pity that the officers concerned have not acted objectively in this regard.

Now, the Andhra Pradesh Administrative Tribunal in O.A.No.7177 of 2014 instituted by the 1st and the 2nd respondents herein has passed an order comprising of two separate areas; the first area concerns the payment of family pension and other terminal benefits due and payable due to the death of the employee Sri D. Anjaneyulu; and the second comprises of consideration of the case of the 2nd respondent herein, the son of the deceased Sri D. Anjaneyulu, for appointment on compassionate basis. Possibly, there is no direct linkage in between these two separate causes of action. May be the O.A. instituted by the 1st and the 2nd respondents could have been hit by the principle of "*mis-joinder of causes of action*". Payment of family pension is an entirely different cause of action from that of non-consideration of the case of the 2nd respondent herein for appointment on compassionate basis due to the premature death of his father Sri D. Anjaneyulu. Be that as it may, the Tribunal appears to have passed an *ex parte* interim order directing the petitioners herein to not only grant family pension to the 1st respondent herein, the widow of Sri D. Anjaneyulu, but also to consider the case of the 2nd respondent for appointment on compassionate basis. The petitioners herein filed Vacate Miscellaneous Petition No.194 of 2015 in that O.A.No.7177 of 2014 praying the Tribunal to vacate its earlier interim order dated 18-12-2014. That vacate miscellaneous petition has been dismissed by the Tribunal, by its Order dated 06-04-2015, which brought-forth the present writ petition.

When Ms. Rajya Lakshmi, learned Government Pleader for Services (Andhra Pradesh) has been confronted by us as to the reasons why the terminal benefits payable upon the death of Sri D. Anjaneyulu have not been settled, she has drawn our attention to the contents of Para 6 of the affidavit filed in support of this writ petition, which reads as under:

“ It is submitted that in obedience to the order of Hon’ble A.P.A.T., Hyderabad vide O.A.No. 717/2014 regarding the payments of A.P.G.L.I., G.I.S., G.P.F., released in respect of Sri D. Anjaneyulu, Ex.Binder, Govt. Regl. Press, Kurnool, and Encashment of Earned leave bill is under process for payment to legal heir of the deceased employee by the Dist. Treasury Officer, Kurnool. The proposal have been submitted to the Collector and Dist. Magistrate, Kurnool vide Lr.No. 535/A1/2014 dt. 21.02.2015 to provide compassionate appointment to the 2nd respondent i.e. Sri D. Mahesh Kumar, S/o Late D. Anjaneyulu, Ex.Binder, Govt. Regl. Press, Kurnool. The Dist. Collector, Kurnool, has returned the compassionate proposals vide Rc.No. A7/1303/2015, dt: 27.03.2015 stated that as W.P.No. 10477 of 2006 is pending in the Hon’ble High Court, Hyderabad with regard to cancellation of S.T. caste certificate of deceased employee and instructed to file an appeal immediately against the orders of the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A.No. 7177 of 2014, and also informed the deceased employee i.e. Sri D. Anjaneyulu was appointed as Binder against ST roster point under limited recruitment w.e.f. 28.8.1995 through Dist. Employment Exchange where his son has produced SC “Budaga Jangam” caste certificate for compassionate appointment issued by the Revenue Divisional Officer, Kurnool which is contradictory.”

To say the least, the statement of fact made by the deponent of the affidavit, in Para 6, is not a faithful statement. The payments affected upon the death of Sri D. Anjaneyulu are, such as, release of Provident Fund amount, Insurance amount, etc. As is too well-known, every government employee contributes every month compulsorily to the Government Provident Fund account. That money fetches a reasonable rate of interest, so that together with the principal contributed by the employee, the same can come as a succor in case

of distress to the individual. So, what the officers representing the petitioners herein have done was, they have released the Provident Fund amount and the Insurance amount, which is to be released to the dependents / heirs of the government servant, who dies while in service. What is required to be paid as per the interim order of the Tribunal was Death-cum-Retirement Gratuity and more importantly, Family Pension, month after month to the widow of the deceased employee Sri D. Anjaneyulu, but they have not been paid so far, it appears. One wonders as to how a widow of a government servant can survive without being paid family pension month after month, with the ever spiraling costs of living. We, therefore, are clearly of the view that the officers representing the petitioners herein have made an unfaithful statement in Para 6 that the orders of the Tribunal have been obeyed.

For the sheer failure on the part of the officers to settle the family pension and also the Death-cum-Retirement Gratuity liable to be paid upon the death of Sri D. Anjaneyulu, this writ petition deserves to be dismissed with costs, which we quantify at Rs.10,000/- (Rupees Ten Thousand only). The State Government shall pay, at the first instance, this money by way of a crossed account payee demand draft, drawn on any of the Nationalized Banks, payable at par on any of their branches at Kurnool. Thirty days' time is granted for affecting this payment. Compliance report has to be lodged with the Registrar (Judicial) of this Court within a week thereafter.

The State Government will also conduct an inquiry against the officers, including the Secretary to the Government in the Printing & Publication Department, for fixing responsibility for this malady and liberty is granted to the Government to recover either proportionately or in lump-sum or on monthly deferred basis, Rs.10,000/- paid towards the quantified costs by the State. For this purpose, a copy of this Judgment is marked to the Accountant General of Andhra Pradesh, Hyderabad.

The other question still remains is as to whether the petitioners herein are liable to consider the claim of the 2nd respondent herein for appointment on compassionate basis. We are alive that there could be possibly some difficulty for the petitioners herein to consider the case of the 2nd respondent for appointment on compassionate basis. The reason is the social status claim of the principal of the 2nd respondent herein, namely, Sri D. Anjaneyulu, was clouded in uncertainty. Hence, there could be an element of doubt and uncertainty about the genuineness of the social status claimed by Sri D. Anjaneyulu. We are also conscious that the claim made by the said D. Anjaneyulu that he is a Member belonging to Scheduled Castes has been found as baseless and untruthful. Therefore, if the 2nd respondent is still making a claim with regard to the same social status, as was claimed by his late father, possibly, the officers could not have exercised the discretion available to them in that regard for taking up his case for consideration. Unless, a proper certificate vouching for the social status is produced, in the wake of the cancellation of the social status claim of his father, the petitioners cannot legitimately undertake consideration of his case for appointment on compassionate basis against one of the vacancies reserved for the members belonging to the Scheduled Castes. However, it shall be open to the petitioners to consider the case of the 2nd respondent herein for appointment on compassionate basis against an unreserved vacancy.

For all the aforesaid reasons, the writ petition fails and it stands dismissed at the admission stage with costs as quantified supra.

Consequently, the miscellaneous petitions, if any, stand dismissed.

**NOOTY RAMAMOHANA
RAO, J.**

ANIS, J.

Note:

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11.08.2015.