

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.3692 of 2015

ORDER:

Heard Sri G.Venkateswarlu, learned counsel for the petitioner, and the learned Government Pleader for Social Welfare Department.

The petitioner sought for a Writ of Mandamus for declaring the inaction on the part of the respondents in releasing the family pension and other retiral benefits consequent to the death of her husband Sri Gaddam Danam.

The case of the petitioner is that one Sri Gaddam Danam was her husband and that Sri G.Danam worked as Warden of the District Social Welfare Hostel in Nellore District and that he has retired from service on attaining the age of superannuation on 30.06.2011 and subsequently expired on 17.10.2014 leaving behind the petitioner herein and their only son as heirs. The petitioner has approached the respondents brining out that she is entitled to be paid family pension and that the pension arrears of Sri G.Danam from the month of July 2011, following the date of retirement of Sri G.Danam up to 17.10.2014, the date on which he expired are also liable to be released in favour of the petitioner herein. It is further pointed out by the learned counsel that the retiral benefits such as payment of Gratuity, Provident Fund, Leave Encashment etc., have also not settled to the Sri G.Danam. Since the petitioner has succeeded to the estate of deceased G.Danam the petitioner is entitled to be received the same. Hence, this writ petition.

It is rather unfortunate that Sri G.Danam, who worked as a warden in one of the hostels run by Social Welfare Department,

Government of Andhra Pradesh died even before, as alleged in this writ petition, he received his retrial benefits. For what reasons the State Government has taken more than 3 years time to settle the retrial benefits of deceased G.Danam is inexplicable. However, payment of terminal benefits such as pension, gratuity, provident fund, leave encashment etc, as well as payment of family pension to the surviving spouse of the Government Servant, are all matters of conditions of service, they are essentially regulated either by the Fundamental Rules and subsidiary rules framed thereunder or by independent schemes/policies framed from time to time. All such rights and obligations arise out of the status of the individual as a Government Servant and any dispute concerning them answers the description of expression “service dispute” in broad terms. As per the ruling of the Supreme Court in “L.Chandra Kumar v. Union of India and others^[1]”, after the constitution of Andhra Pradesh Administrative Tribunal under the provisions of Andhra Pradesh Administrative Tribunals Act 1985, all service matters have to be got resolved by such tribunal at the first instance and thereafter only a judicial review exercise can be carried out wherever it is warranted. Therefore, preserving liberty to the petitioner to approach the Andhra Pradesh Administrative Tribunal at the first instance to establish her rights before the said Tribunal for receiving the terminal benefits, pension arrears and family pension, this writ petition stands dismissed. No costs.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

09.03.2015
Ksp

[\[1\]](#) (1997) 3 SCC 261