

HONOURABLE SRI JUSTICE M.S.K.JAISWAL

W.P.No.10017 of 2005

ORDER:

This Writ Petition is filed seeking a direction to the 1st respondent to release family pension to the petitioner.

The case of the petitioner is that her father Md.Jaffar Saheb, who worked as Civil Police Constable under the 1st respondent, retired from service on attaining the age of superannuation on 28.02.1983 and thereafter he died on 05.02.1999 leaving behind the petitioner and two sons. The mother of the petitioner died on 16.09.1985 prior to the death of her father. The petitioner is unmarried as she is completely deaf and dumb and she is depending on her youngest brother. The father of the petitioner, while giving nomination to his pension, entered the name of the petitioner to receive pension after his death, however, he did not appoint any guardian to receive pension on her behalf, as she is completely deaf and dumb person. Subsequently, the petitioner made a representation to the 1st respondent on 15.12.1999 seeking to grant family pension on account of death of her father. However, the 1st respondent vide letter dated 23.11.2004 rejected the claim stating that the Accountant General, Hyderabad, or the Director, Local Fund Audit has not indicated on the family pension payment order the name and eligibility of the claimant (Akthar Bee), who is suffering from disorder of complete deaf as per the Medical Certificate. Further, the deceased pensioner has not appointed a guardian to receive family pension on her behalf as per the provisions of the Government Circular Memo No.13924-G/687/Pen.I/90 dated 27.12.1990 of Finance and Planning (FW.Pen.I) Department.

Heard the learned Counsel appearing on either side and perused the material available on record.

Admittedly, the petitioner-Akthar Bee is completely deaf and dumb person as per Medical Certificate dated 17.03.2005 issued by the Government General Hospital, Anantapur. Further, the petitioner is unmarried and she is depending on her youngest brother-S.Md.Shafi, who filed this writ petition on her behalf. Moreover, the father of the petitioner mentioned in his pension papers that the petitioner, who is deaf and dumb, is entitled to receive family pension after his death. The ground on which the claim of the petitioner was rejected cannot be sustained. Once the pensioner has notified in the pension forms the name of the petitioner to receive pension after his death, it is for the authorities to see that the family pension should be payable to the petitioner. Further, the youngest brother of the petitioner, who is her next friend, filed the writ petition on her behalf. Therefore, the petitioner is eligible for receipt of family pension.

The Writ Petition is accordingly allowed, and the respondents are directed to consider the representation of the petitioner for grant family pension along with arrears from the date of her eligibility as per rules and pass appropriate order within a period of three months from the date of receipt of a copy of this order, in the light of the observations made hereinabove. No order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

17-11-2015

Gsn

