

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

-

W.P.No.16224 OF 2015

Between:

Miss.T.Yasoda

....Petitioner

A n d

The High Court of Andhra Pradesh,
Rep. by its Registrar, Administration,
High Court, Hyderabad
and others

....Respondents

DATE OF JUDGMENT PRONOUNCED: 21.07.2015

SUBMITTED FOR APPROVAL:

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

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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 Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

W.P.No.16224 OF 2015

PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Mr.A.Chandraiah Naidu, learned counsel for the petitioner and the learned Government Pleader for Finance and Planning.

The petitioner prays for Mandamus declaring communication SA.No.83 dated 25.07.2012 issued by the 4th respondent and consequential order Dis.No.434 dated 27.09.2012 of the 3rd respondent returning petitioner's application for sanctioning the family pension to petitioner on the death of her father T.Veera Swamy, as illegal and contrary to G.O.Ms.No.315, Finance (Pension-I) Department dated 07.10.2010 and G.O.Ms.No.353, Finance (P.S.C) Department dated 04.12.2010. The petitioner prays for consequential direction to sanction family pension to her, as daughter of late T.Veera Swamy.

The case of petitioner is as follows:-

The petitioner is the unmarried daughter of late Veera Swamy. On 31.10.1988, the petitioner's father retired from the State Subordinate Judicial Service. On 17.06.2010, the father of petitioner died. The case of petitioner is that she is entitled to receive family pension as accorded through G.O.Ms.No.315 dated 07.10.2010 and G.O.Ms.353 dated 04.12.2010. Respondents 2 and 3 have forwarded the application of petitioner to the 4th respondent for sanction of family pension to petitioner. The 4th respondent through letter SA.No.83 dated 25.07.2012 returned the application of petitioner made for sanction of family pension. The letter dated 25.06.2012 reads as follows:

Sir,

Sub: Pension – Family Pension proposal of
Kum.T.Yashodha, d/o
Veeraswamy, Deceased Process Server –
Returned.

Ref:- Your Lr.Dis.No.5917/2012/Accts.
Dt.10.07.2012.

With reference to your letter cited, I am to inform that since the G.O extending the pensionary benefits to the unmarried daughter issued on 04.12.2010 whereas the

pensioner expired on 17.06.2010. The benefits extended in the Government Order are having prospective effect i.e., the date of Government Order 04.12.2010.

In view of the above, sanction of family pension to Kum.T.Yasoda unmarried daughter does not arise.”

Hence, the writ petition.

The learned counsel appearing for the petitioner contends that G.O.Ms.No.315 dated 07.10.2010 and G.O.Ms.353 dated 04.12.2010 are in the nature of extending benefit of family pension to a few persons in singular circumstances and the 4th respondent while refusing the benefit of family pension to petitioner misread the G.Os and consideration by 4th respondent suffers from serious infirmities and illegalities. The prospective application of instant GOs by the 4th respondent cannot be supported from the explicit language used in the instant GOs. According to learned counsel,

if a doubt arises on the extent of application of family pension to a person falling under one or the other category under the impugned GOs, reference to the PRC report and the extent of acceptance of Government of PRC report should have been referred. The 4th respondent having found that the petitioner otherwise satisfies the eligibility criteria ought not to refuse family pension as the G.Os are applicable to petitioner.

He further submits that the construction placed by the 4th respondent amounts to introducing a few words into the GOs and the 4th respondent does not have authority to whittle down the scope and extent of benefit to persons falling under the category. According to the learned counsel, the reasoning of the 4th respondent that the GOs are applicable if the employee is alive as on the date of issuance of these GOs and dies thereafter. Even assuming that the petitioner's father Veera Swamy died on 17.06.2010, the petitioner does not cease to be unmarried daughter of a retired employee who was drawing pension and the benefit of family pension cannot be denied to her. Therefore, he

prays for setting aside the impugned communication and prays for a further direction to sanction family pension to petitioner. The learned counsel draws attention of the Court to the counter affidavit of 4th respondent and submits that the ground on which family pension is denied to petitioner is G.Os are prospective.

We have taken note of the submission of learned counsel for the parties and perused the material available on record.

Prima facie, we are satisfied that the communication dated 25.07.2012 issued by the 4th respondent and the consequential order dated 27.09.2012 of the 3rd respondent suffer from too much of brevity and hardly any reason is stated for making the GOs prospective and denying family pension to the petitioner. The petitioner is found to be eligible, except the fact that petitioner's father died on 17.06.2010. Family pension is also a right, the consideration of such right by 4th respondent should be fair, objective and in accordance with the applicable Government Orders. In the case on hand, on the short ground that reasons are not stated while returning the application of petitioner for grant of family pension, we are inclined to set aside the impugned communication/order and direct the 4th respondent to re-consider the request of petitioner for sanction of family pension within a period of three months from the date of receipt of a copy of this order and pass appropriate orders. It is made clear that if the 4th respondent desires to take guidance or advise from the Finance Department, on the extent of applicability of family pension to dependants of pensioners who died prior to 07.10.2010, the 4th respondent is free to do so. Appropriate decision in this behalf is taken by the 4th respondent as directed above.

Writ petition is allowed. The matter is remanded to the 4th respondent for fresh consideration and disposal.

Consequently, miscellaneous petitions, if any pending, also stand

disposed of.

ACJ

DILIP B. BHOSALE,

S.V.BHATT,

J
Date: 21.07.2015
Lrkm