HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.2717 of 2002

Date: 13-08-2015

Between:

M.B.H.V. Dattatreya

.... Petitioner

AND

The Government of Andhra Pradesh, represented
by its Secretary, Endowments Department,
Secretariat, Hyderabad and 2 others

.... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.2717 of 2002

ORDER:

This writ petition is filed for a mandamus declaring the action of the respondents in not applying the A.P. Revised Pension Rules, 1980 in fixing the petitioner's pension as per G.O.Ms.No.680, Revenue (Endowments-II) Department, dated 15-08-1987 as illegal and arbitrary and for a consequential direction to the respondents to extend the benefits of A.P. Revised Pension Rules, 1980 to the petitioner.

2. The case of the petitioner is that he is a Purana Pandit and was appointed as Purana Pandit under "Dharma Prathista" scheme in the 3rd respondent temple and in the year 1982, the Trust Board passed a resolution recommending to give scales and confirmed his appointment and the said resolution was forwarded to the 2nd respondent-Commissioner for Endowments, who granted scale of pay of Rs.530-15-590-20-860 as U.D.C. and ever since then the

petitioner worked as Pandit in the 3rd respondent temple and the services of the petitioner rendered to the 3rd respondent temple under Dharmaprathista scheme was not taken into consideration and as per rules in vogue, his retirement was at the age of 65 years. It is further stated that on attaining the age of superannuation, the petitioner retired from service with effect from 30th June, 1999 in the cadre of Assistant Commissioner of Scales, 1995. A Letter in Lr.No.2147/P2/99-2000, dated 05-02-2000 has been addressed by the Audit Officer, Local Funds, Machilipatnam stating that on scrutiny of the pension proposals of the petitioner, he is entitled to superannuation pension under the Andhra Pradesh Liberalized Pension Rules, 1961 at Rs.1,530/- with effect from 01-07-1999 apart from other benefits, as such, the respondents cannot deny the petitioner's pension under 1980 Revised Pension Rules and cannot deny his services. As the respondents unjustly delayed the matter and did not fix his pension in accordance with the Rules, they are liable to pay interest on the revised pension at 12% p.a. Aggrieved by the action of the respondents in not fixing the pension of the petitioner in accordance with Revised Pension Rules, 1980 and also as per G.O.Ms.No.680, dated 15-08-1987, the present writ petition has been filed.

3. The 3rd respondent-temple filed its counter denying the allegations of the petitioner and contending that the petitioner was appointed as Purana Pravachandar in the 3rd respondent-temple on 23-02-1983 and thereafter, he continued as such till he retired from service by attaining superannuation on 30-06-1999 and after retirement of the petitioner, he was sanctioned service pension of Rs.1530/- as per the recommendation of the Audit Officer, Machilipatnam vide his Lr. In L.F.No.2147/P2/1999-2000, dated 05-

02-2000 and he was paid pension till 10-10-2009 thereafter, intimation was given to the 3rd respondent by his family members that the petitioner expired on 11-10-2009 and a copy of cremation notification form was sent and thereafter, the pension was stopped as none of the legal heirs or any family members have made any application or claimed the pension of the petitioner. It is further stated that after a period of five years and nine months, L.R. petition was filed by the petitioners to implead them as legal representatives of the deceased petitioner and for all these years, the legal representatives have never approached the 3rd respondent or even made an application with regard to pension benefits of the deceased petitioner and hence, the 3rd respondent sought for dismissal of the writ petition.

4. The implead petitioners have filed their counter stating that their father died on 11-10-2009 and during his life time, their father filed the present writ petition and the office of the 3rd respondent requested them to give copy of the death certificate of their father in the second week of July, 2015 and on enquiry, since they came to learn about the pendency of the writ petition, they filed the L.R. petition for their impleadment as legal heirs of the deceased petitioner and that as they did not have knowledge about the pendency of the writ petition, they could not get the petition filed immediately after the death of their father.

5. Heard the learned counsel for the petitioner and the learned standing counsel for the 3rd respondent-temple.

6. Admittedly, the petitioner died on 11-10-1999 and it is the case of the 3rd respondent-temple that as nobody was approached to the 3rd respondent-temple being the legal heirs of the deceased 1st petitioner, the pension of the 1st petitioner was stopped, nor

even the deceased 1st petitioner or any other petitioner being the legal representative of the deceased 1st petitioner have made application either for payment of pension or for extension of the benefits under G.O.Ms.No.680, dated 15-08-1987. Now the legal representatives of the deceased petitioner have filed WPMP.No.28652 of 2015 for their impleadment as petitioners 2 to 7 being legal representatives of the deceased 1st petitioner and the same is allowed in view of the averments stated therein. As already stated, the 3rd respondent-temple categorically stated in the counter-affidavit that their case will be considered as per Rules.

7. Having regard to the facts and circumstances of the cases, the petitioners 2 to 7, who are brought on record as legal representatives of the deceased 1st petitioner, can make appropriate application as per rules to the 3rd respondent-temple showing proof of identity that they are legal representatives of the deceased 1st petitioner and on satisfaction of such proof, the 3rd respondent-temple shall consider the same and pass appropriate orders in accordance with law for grant of benefits on account of death of the 1st petitioner as per rules in vogue.

With the above direction, the writ petition is disposed of. No costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A. RAJASHEKER REDDY, J

Date: 13-08-2015

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