

HON' BLE SRI JUSTICE SURESH KUMAR KAIT

Writ Petition No.26271 of 2013

ORDER:

Vide present petition, the petitioner seeks a direction, thereby directing the respondents to pay freedom fighter's pension by disposing the representation of the petitioner dated 25.07.2013.

2. It is stated in the affidavit that the husband of the petitioner was drawing Freedom Fighter pension from Central Revenue, vide PPO No.5024/ Pol/ Central, issued by the AGAP, Hyderabad and he expired on 02.08.1996. He was having two wives i.e. Smt Basamma, as first wife and the petitioner as second wife. Both were married him before 1955. The District Treasury Officer, Medak at Sangareddy, who was Disbursing Officer at that time has issued instructions to the Sub-Treasury Officer, Zaheerabad, to pay full amount of family pension vide Memo No.D4/ 8432/ 96 dated 23.11.1996 to both the wives treating separate entities with effect from 03.08.1996.

3. It is further stated that the petitioner has been receiving pension from the Sub Treasury Officer, Zaheerabad. Subsequently, the pension documents have been transferred to Syndicate Bank, Jharasangam Branch, for further payments. She has been receiving full family pension from the above bank without any objection through bank A/c No.3402/ 220/ 15088. It is also stated that the petitioner residing separately and maintaining the family separately without any connection with the first wife, with the amount of family pension. Since last four months, the bank authorities are not releasing full amount of family pension stating that the petitioner is eligible only half of the family

pension and not full amount. The said authority also proposing to recover half amount of pension paid to the petitioner so far.

4. On the other hand, counter-affidavit filed on behalf of the 1st respondent, stating that instructions were issued vide Ministry's letter No.8/ 02/ 98-FF (P) dated 13.10.2000 (Exhibit R.1) in supersession of all earlier orders on dependent family pension under the Swatantrata Sainik Samman Pension Scheme, 1980, provided that if the deceased freedom fighter has more than one legally wedded wife as dependents, the family pension admissible to one dependent widow would be shared by them equally. Subsequently, the Ministry of Home Affairs, vide letter No.8/ 3/ 2011-FF (P) dated 23.02.2012 (Exhibit R2), clarified that the instructions contained in the letter dated 13.10.2000 is applicable not only for the future cases but in respect of past cases also; however, no recovery in past cases as regards dependent family pension drawn prior to 13.10.2000 would be effected.

5. At this stage, learned counsel for the petitioner submits that in view of the averments made in the counter-affidavit, the petitioner has no dispute if half of the family pension is disbursed in favour of the petitioner and the payment earlier made not recovered by the respondents.

6. Instructions issued under the Ministry's letter dated 13.10.2000 (Exhibit R1), clearly shows that in supersession of all earlier orders on dependent family pension provided that henceforth, the dependent family pension admissible to one dependent widow would be shared equally, if wives are more than one. As per the clarifications issued under Ministry's letter dated 23.02.2012, the instructions are also

applicable for past cases also, but no recovery would be made for the claims drawn prior to 13.10.2000, i.e., the date of issue of order.

7. In view of the submissions of the learned counsel for the parties and considering the letter dated 23.02.2012, I hereby direct the respondents to disburse half of the family pension in favour of the petitioner and rest of the half portion may be released in favour of the first wife of the deceased freedom fighter. I hereby made it clear that no recovery shall be effected from the petitioner. The arrears if any shall paid within one week from the date of receipt of a copy of this order.

8. With the above direction, the writ petition is disposed of. No order as to costs. Pending miscellaneous petitions, if any, in this petition, shall stand closed.

Date: 14.10.2016
Note: Furnish CC in three days
(BO)
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SURESH KUMAR KAIT, J

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URGENT
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Date: 14.10.2016

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