

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT APPEAL NO.2387 OF 2005

DATED:03-08-2016

Between:

R. Janaki ... Appellant

And

The Secretary to Government
Education Department
School Education
Secretariat
Hyderabad
and others ... Respondents

COUNSEL FOR THE APPELLANT : Mrs. S. Sasikala

COUNSEL FOR THE RESPONDENTS: G.P. for School Education
(AP)

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THE COURT MADE THE FOLLOWING:

JUDGMENT: *(per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)*

This writ appeal is filed against order dt.28.9.2004 in W.P. No.26379 of 2003 whereby the learned single Judge dismissed the writ petition filed by the appellant for a mandamus to declare Letter No.P.16/III/P.326/FP-124/93-10/Rev.204/25, dt.20.4.2001, of respondent No.3, as illegal and arbitrary, consequently to set aside the same and to declare that the appellant is eligible and entitled for re-fixation of family pension on the basis of the Last Pay Drawn by her demised husband, with effect from 01.11.1992, besides payment of interest.

Brief facts leading to the filing of this writ appeal are that while working as Head of Department in Physics in M.R. College of Education, Vizianagaram, the husband of the appellant died on 25.02.1992. At that time he was drawing pay of Rs.4,450/-. By proceedings dt.6.12.1993 the family pension of the appellant was fixed at Rs.500/- per month for the first seven years and at Rs.250/- per month afterwards. Seven years after the pension was fixed, the appellant approached respondent No.2 for revising the pension by applying G.O. Ms. No.2, dt.5.1.1994. On considering the said representation, the office of respondent No.3 has rejected the proposal for payment of the revised pension vide aforementioned letter addressed to respondent No.2, which reads as under:

"With reference to the family pension proposals of Smt. R. Janaki, I am to inform you that the pensioner Sri R.R.S. Prakasa Rao died on 25.2.1992 that is before 1.11.1992 he is not eligible for revision of family pension under RPRs 80 as per GO.2. Hence, the pension proposals and service books are returned herewith."

Three years thereafter the appellant has filed the aforementioned writ petition. After hearing the learned counsel for both parties, the learned

single Judge has held that as per G.O. Ms. No.2, dt.05.1.1994, the retired employees who were alive as on 01.11.1992 alone are entitled to the revised pension. Admittedly, the finding of the learned single Judge to this effect was not under challenge. It therefore necessarily follows that to be entitled to the revised pension, the appellant must be able to show that her husband was retired and alive as on 01.11.1992. Admittedly, the husband of the appellant died while in service on 25.02.1992 and therefore the main criterion fixed for the eligibility of the revised pension has not been satisfied in the case of the appellant's husband. Therefore, the learned single Judge has rightly rejected the relief sought by the appellant.

Hence, we do not find any merit in this appeal and the same is accordingly dismissed.

As a sequel to dismissal of the writ appeal, W.A.M.P. No.4292 of 2005 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

G. SHYAM PRASAD, J

03-08-2016

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