

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.23347 OF 2010

ORDER:

The case of the petitioner is that her husband retired from service on attaining the age of superannuation in the month of September 2002 from the 2nd respondent company. At the time of retirement, petitioner's husband submitted pension forms, nominating the petitioner for family pension. However, her husband passed away on 28.02.2008 leaving the petitioner and her children. Thereafter, petitioner submitted representation dated 10.03.2008 requesting the 2nd respondent to sanction family pension to her as per the nomination made by her husband. Thereafter, family pension proposals were processed and approved in favour of the petitioner. But, however, despite lapse of nearly one year, the petitioner has not been paid family pension. As such, the petitioner filed WP.No.1815 of 2009 and the same was disposed of by an order dated 04.02.2009 directing the respondents to consider petitioner's representation dated 10.03.2008 for payment of family pension. Thereafter the petitioner was paid family pension from March, 2008 to October, 2009. Thereafter, i.e. from November, 2009 onwards pension was stopped to the petitioner. As such, the petitioner filed CC.No.588/2010 and the same was closed basing on the counter affidavit filed by the respondents wherein it is stated that the representation of the petitioner was already disposed of granting liberty to the petitioner to work out remedies. In the counter affidavit in CC.No.588/2010 the respondents taken a plea that

one B.Eshwaramma filed a suit seeking to declare her as second wife of the petitioner's husband, as such, pension was stopped. But in fact in the said suit no interim orders were granted by the Civil Court to stop pension to the petitioner. It is also stated that the said Eshwaramma also filed a writ petition No.10315/2009 seeking pension in the capacity of second wife of petitioner's husband and the same was also dismissed. In pursuance of the same Eshwaramma filed suit and in the said suit no injunction or direction was granted by the Court below. When no injunction order is granted the respondents cannot withhold the pension to the petitioner. As such, the petitioner filed the present writ petition.

Heard learned counsel for the petitioner and Sri R.Vinod Reddy, learned Standing Counsel for the respondents.

It is to be seen that this Court passed interim order on 21.09.2010 by giving reasons and the respondents did not file any counter affidavit, till today. Further, it is not brought to the notice of this Court that any injunction order is operating against the respondents for stopping payment of pension to the petitioner. More so, the petitioner categorically asserted that her husband made nomination in her favour for receiving family pension and the interim order granted by this Court on 21.09.2010 is still subsisting. As long as no injunction is operating against the respondents, they cannot stop family pension granted in favour of petitioner. As such, the writ petition is liable to be allowed.

Accordingly, the writ petition is allowed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

18.11.2016

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