THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.22173 OF 2004

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ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the direction given by the first respondent to the second respondent on 24.05.2003 directing payment of 50% of salary of the petitioner to the third respondent as illegal, arbitrary, null and void and for a consequential direction to direct respondent Nos.1 and 2 not to pay 50% of the salary of the petitioner to the third respondent.

2. The facts leading to filing of the present writ petition are briefly as follows:

The petitioner has been working as Attender in the office of the second respondent from 1994 onwards. The marriage of the petitioner was performed with the third respondent on 18.05.1990 at Annavaram Temple, East Godavari District as per Hindu Rites and Caste Custom. The petitioner and the third respondent were blessed with three daughters. The third respondent filed a complaint against the petitioner and his parents for the offence punishable under Section 498-A I.P.C. Subsequently, the third respondent filed O.P.No.431 of 1993 under the provisions of the Guardians and Wards Act, 1890 for custody of the minor children and the same was withdrawn by her. The petitioner submitted a petition to the first respondent on 24.05.2003. The first respondent on the same day directed the second respondent to pay 50% of the salary of the petitioner to the third respondent. Thereafter, the second respondent called for the explanation of the petitioner on 05.06.2004. The petitioner herein submitted his explanation on 14.06.2004. As per the direction of the first respondent, the second respondent is deducting 50% of the salary of the petitioner and paying the same to the third respondent.

3. The predominant contention of the learned counsel for the petitioner is that respondent Nos.1 and 2 have no right whatsoever to deduct 50% of the salary of the petitioner and pay the same to the third respondent. The third respondent having received the notice did not choose to appear and file counter. Respondent Nos.1 and 2 also did not choose to file counter.

4. It is an admitted fact that the petitioner has been working under the control of the second respondent. It is not the case of respondent Nos.1 and 2 that they are deducting the salary of the petitioner in pursuance of the disciplinary proceedings. It appears that there are some disputes between the petitioner and the third respondent. The misunderstandings between the petitioner and the third respondent have nothing to do with the discharge of the duties by the petitioner as a Government employee. A perusal of the record reveals that basing on the complaint of the third respondent, the second respondent made an endorsement to deduct 50% of the salary of the petitioner and pay the same to the third respondent even without giving any opportunity to the petitioner.

5. Learned Government Pleader, in all fairness, submitted that there is no provision under the C.C.A. Rules to deduct the salary of the petitioner and pay the same to the third respondent. If at all the third respondent is entitled to claim maintenance from the petitioner, the only remedy available to her is to approach the concerned Court for redressal. Respondent Nos.1 and 2 passed the impugned order without giving a reasonable opportunity to the petitioner. Any order passed by the competent authority without giving reasonable opportunity certainly would amount to violation of the principles of natural justice. The respondent Nos.1 and 2 have no right whatsoever to interfere with the family affairs of petitioner and third respondent by passing the orders of this nature. Viewed from any angle, the impugned direction dated 24.05.2003 is not sustainable either on facts

or on law.

6. Having regard to the facts and circumstances of the case, I am inclined to set aside the impugned direction dated 24.05.2003.

7. Accordingly, the Writ Petition is allowed and the impugned direction dated 24.05.2003 is hereby set aside. No costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 10.06.2016
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