

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

CONTEMPT CASE NO.343 OF 2015

Between:

B.Balamukund Rao

... Petitioner.

And

Mr.V.K.Agrawal, IAS,
Principal Secretary and 2 others

... Respondents.

DATE OF JUDGMENT PRONOUNCED:31.07.2015

SUBMITTED FOR APPROVAL:

-

-

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

-

- | | |
|--|----|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | No |
| 3. Whether Their Ladyship/Lordship wish to see
the fair copy of the Judgment? | No |

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CONTEMPT CASE NO.343 OF 2015

ORDER:

This contempt case is filed complaining that the interim order passed by this Court in WPMP.No.48049 of 2014 in W.P.No.38391 of 2014 on 17.12.2014 has not been complied with deliberately and wantonly by the respondents. Hence, they should be punished under the provisions of Sections 10 and 12 of Contempt of Court Act.

Before proceeding any further, it would be appropriate to notice the interim order passed by this Court referred to supra, which reads as under:

“The case of the petitioner may be considered with necessary compassion and appropriate orders determining his eligibility to receive pension under the disabled category be passed and the same be communicated to him as expeditiously as is possible preferably within a maximum period of two months from the date of receipt of a copy of this order”

It is clear that the respondents are directed to consider the case of the petitioner with necessary compassion and appropriate orders determining his eligibility to receive pension under the disabled category be passed.

Sri B.Balamukund Rao, the party has appeared in person and made his submissions. He would point out that the Tahsildar, Himayathnagar Mandal has communicated the order once again on 02.03.2015 declaring that the petitioner is not entitled for sanction of disabled pension.

In the order dated 02.03.2015 it is pointed out that the State Government has put in place certain varieties of social security

measures such as old-age pension, pension for differently abled people and pension based on socio-economic criteria etc. So far as the old age pension is concerned, the person to receive such pension, should be of '65' years of age. Admittedly, Sri B.Balmukund Rao's age is far less than the '65' years as he has produced the certificate vouching to the fact that he was born in 1959.

In that view of the matter, he is not eligible to be sanctioned old age pension.

So far as the pension for the disabled persons is concerned, irrespective of their age they are entitled to be granted such pension subject, of course, to the condition that the disabled person must have a minimum of 40% disability as assessed by SADAREM. According to the respondents, there is no such certificate produced by the petitioner and on the other hand he is relying upon a certificate issued by a physician/cardiologist, who was treating him for one of the coronary ailments suffered by the petitioner and certifying that the petitioner has suffered disability of 40%.

The respondents have taken the stand that minimum percentage of disability should be 40%, for one to avail the pension under this scheme. According to the petitioner he suffered 40% of the disability at the minimum. This 40% prescribed for receiving pension is not a some kind of magical figure. In fact, Section 2 (t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 defines the "person with disability" as a person suffering from not less than 40% of any disability as certified by a medical authority. In the instant case, the petitioner suffered 40% disability. But the difficulty encountered by the petitioner that he was required to have his disability assessed by SADAREM. Obviously, the petitioner has not made any such attempt to secure such certificate. Because he could not produce such certificate, his claim for sanction

of pension under the disabled persons welfare is not sanctioned to him.

Therefore, the question that arises for consideration is whether the denial of payment of disability pension to the petitioner is contemptuous in content and context of the orders passed by this Court earlier and referred to supra.

The answer to that question lies in the contents of the scheme itself. The scheme has clearly spelt out that apart from suffering 40% disability the candidate is also required to produce the assessment certificate made by SADAREM. Even though the cardiologist or physician, whoever is treating the petitioner, may be absolutely and clinically right in his assessment that the petitioner has suffered 40% disability, but that by itself cannot fetch him the pension under disabled categories. For securing the pension he has to have his disability assessed by the SADAREM, the condition precedent prescribed in the scheme itself.

Therefore, subject to the petitioner producing such an assessment certificate before the respondents the pension may be considered to be granted.

However, as and when the petitioner produces the disability certificate from the competent authority the respondents would undoubtedly consider his case for sanction of the pension under the disability pension scheme.

With this, the contempt case stands disposed of. No order as to costs.

JUSTICE NOOTY RAMAMOHANA RAO

31.07.2014
Ksp

