

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE M.S.K.JAI SWAL

WRIT PETITION No. 18676 OF 2016

Date: 11.11.2016

Between:

Smt. Sadika Begum,
Mahabubnagar District.

..... Petitioner

And:

The State of Telangana,
Rep. by the Principal Secretary,
Panchayat Raj Department,
Telangana Secretariat,
Hyderabad, and others.

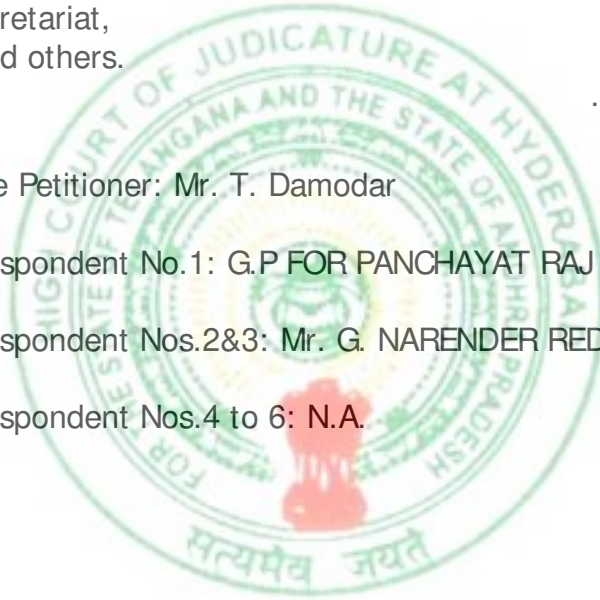
.....Respondents

Counsel for the Petitioner: Mr. T. Damodar

Counsel for Respondent No.1: G.P FOR PANCHAYAT RAJ

Counsel for Respondent Nos.2&3: Mr. G. NARENDER REDDY

Counsel for Respondent Nos.4 to 6: N.A.



The Court made the following:

ORDER (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for a *mandamus* to set aside award dated 13.09.2013 in Pre-Litigation Case No.59 of 2013 on the file of the District Legal Services Authority, Mahabubnagar.

The petitioner claims to have lived with one Shaik Sultan Miya (for short 'the deceased'), who was Attender at Zilla Parishad High School, Utkoor Mandal, Mahabubnagar District, and stated to have died on 23.10.2012, in harness. According to the petitioner, respondent No.4, who was married by the deceased, left him after begetting respondent Nos.5 and 6 and that thereafter, she lived with the deceased all through his life till his death. The dispute pertaining to entitlement of the death benefits and also compassionate appointment was raised by respondent Nos.4 to 6 in Pre-Litigation Case No.59 of 2013 before the District Legal Services Authority at Mahabubnagar. On the agreement reached between the parties, a settlement was recorded by the District Legal Services Authority on 13.09.2013. As per the settlement, half of the share in the death benefits of the deceased employee will be taken by respondent Nos.4 to 6 and the remaining half will be taken by the petitioner. Both parties further agreed that the Department may consider the benefit of compassionate appointment to be given to respondent No.6, the son of the deceased employee, as per the Departmental Rules, Guidelines and Procedure.

The grievance of the petitioner, as ventilated in this writ petition and as submitted by the learned counsel for the petitioner, is that respondent Nos.4 to 6 have played fraud by not excluding the clause regarding petitioner's entitlement to receive the family pension exclusively by herself in the compromise agreement and consequently from the order

passed by the District Legal Services Authority and that therefore, the whole compromise is vitiated.

We do not find any merit in this submission. A perusal of the compromise award passed by the District Legal Services Authority does not show that the family pension was subject matter of a dispute among the parties. The petitioner is not disputing the fact that she has agreed for receiving half share of the death benefits and also for considering respondent No.6 for compassionate appointment. It is, however, her pleaded case that she was made to agree for the aforementioned arrangement with the understanding that she will be entitled to receive the family pension exclusively for herself. In a writ petition filed under Article 226 of the Constitution of India, it is not possible for us to adjudicate this issue, which falls in the realm of a question of fact.

Since the Pre-Litigation Case did not deal with the aspect of family pension at all, the petitioner is not deprived of her right, if any, to claim the same exclusively for herself. She is, therefore, entitled to institute appropriate legal proceedings, if so advised, for claiming family pension before the competent forum of law.

Subject to the liberty given to the petitioner as above, the Writ Petition is dismissed.

As a sequel, W.P.M.P.Nos.22934 and 22935 of 2016 stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAI SWAL, J

Date: 11.11.2016
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