

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 1554 of 2011

Date :20.7.2016

Between :

M. Lakshmi W/o Vijay Kumar
12th ward, Ashoknagar, Koyyalagudem
W G District

Petitioner

And

The Andhra Bank,
Rep by its Managing Director,
Dr Pattabhi Bahvan,
5-9-11, Saifabad, Hyderabad and others

Respondents

The Court made the following:

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ORAL ORDER:

Heard Sri Chaparla Sitaram, learned counsel for petitioner,
Dr. K. Lakshmi Narasimha, learned standing counsel for respondent Andhra Bank and Sri. Sudhakar Rao Ambati for third respondent.

2. Petitioner claims to be wife of late Vijay Kumar, who was an employee of Andhra Bank. In this writ petition, petitioner seeks direction to respondents 1 and 2 to pay the terminal and death benefits due and payable on account of the death of serving employee. In support of her claim that she is wife of the deceased employee, petitioner placed reliance on Registration of Marriage Certificated dated 12.4.1989 issued by the competent authority. It appears that there were differences between petitioner and her husband which resulted in institution of divorce case and petitioner also filed application for grant of maintenance, which was ordered. As per the directions of the competent Court, the respondent bank paid the amount of maintenance awarded. After the death of late Vijay Kumar, the claim of the petitioner for grant of terminal benefits are denied by the respondent bank on the ground that according to service records available with the bank, the employee nominated third respondent as wife and therefore she alone is entitled to receive the benefits.

3. Sri Chaparla Sitaram, submits that petitioner is legally wedded wife of deceased and she alone is entitled to receive all terminal benefits and family pension. The action of the respondent bank in not paying those benefits is illegal. He further submits that merely because name of third respondent is shown as nominee, said benefits cannot be paid to her. In support of the claim of petitioner, reliance is placed on the marriage certificate and orders passed by the competent Court granting maintenance.

4. The only defense of Dr.Lakshmi Narasimha is since petitioner's name is not shown in nomination and third respondent is nominated, bank has to pay terminal benefits only to third respondent. Dr.Lakshmi Narasimha submits that terminal benefits and family pension are not released to the petitioner or the third respondent. Neither petitioner nor third respondent recognize other as the legally wedded wife.

5. Learned counsel for third respondent relies on the statement of the respondent bank that according to service record, she is wife and entitled to receive the benefits. No counter is filed by third respondent. No material is brought on record on her claim.

6. Prima facie, as per the material placed on record, in this writ petition, it appears petitioner was legally wedded wife of deceased. However, apparently, there are rival claims. This Court cannot go into the disputed questions of fact as to who is entitled to receive the terminal benefits. Petitioner and third respondent respectively have to work out their remedies as available in law with reference to entitlement to receive the terminal benefits of the deceased employee.

7. In the peculiar facts of this case and having regard to the fact that the terminal benefits are not paid and lying with the bank and so far family pension is not released, learned counsel for petitioner and learned counsel for third respondent, on instructions, agree that both will share the family pension equally till the dispute is resolved by competent Court on their respective entitlement.

8. At this stage, Dr. Lakshmi Narasimha, submits that deceased employee obtained educational loan in favour of daughters born through third respondent and loan amounts were not repaid and as of now an amount of Rs.16,00,000/- is due. He further submits that late Vijay Kumar stood as guarantor. He further submits that terminal benefits to a tune of Rs.11,00,000/- are lying in the account of late Vijay Kumar and from the terminal benefits, the bank is entitled to adjust the said amount. Counsel for petitioner and third respondent have no serious objection on such adjustment. However, Sri Chapra Sitaram submits that treating daughters of third respondent and granting loan was illegal. With reference to settlement of account, bank is at liberty to adjust the amounts lying with the bank towards loan account. However, if the petitioner succeeds before the competent Court in establishing that she alone is entitled to receive the terminal benefits, it is open to the petitioner to contest the decision of the respondent bank to adjust the amounts towards educational loan granted to the children of third

respondent.

9. The writ petition is disposed of directing the respondent bank to pay the family pension to petitioner and third respondent in equal proportion till the rival claim as to entitlement to receive terminal benefits is resolved. It is open to petitioner to establish her entitlement to claim full terminal benefits and full family pension before appropriate forum, if so advised. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE:20.7.2016
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P NAVEEN RAO,J

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