

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No. 25013 of 2014

ORDER: (*Per VRS,J*)

The petitioner, whose husband was employed as a Record Assistant and who was removed from service, has come up with the present writ petition, challenging the order of removal from service and also seeking all the consequential benefits.

2. Heard Mr. S. Chandra Sekhar, learned counsel for the petitioner, and Mr. Posani Venkateswarlu, learned standing counsel for the High Court, appearing for the respondent.

3. The petitioner's husband was appointed as an Attender on 03.06.1984. He was promoted as Record Assistant on 12.09.1994. He absconded from duties from 06.12.2005. When disciplinary proceedings were initiated, he did not participate. But, in response to the notices issued, the petitioner kept on responding, stating that her husband was unwell.

4. Therefore, eventually, an order of penalty of removal from service was passed on 04.12.2006. Thereafter, the petitioner started making representations, for the grant of terminal benefits and for

appointment on compassionate grounds. The request was rejected. Therefore, she filed a writ petition in W.P.No.3356 of 2014 on the file of this Court. The prayer made in the said writ petition was for the grant of appointment on compassionate grounds. But, by a final order, dated 04.03.2014, this Court rejected the prayer for appointment on compassionate grounds, however, with liberty to her to question the order of removal from service.

5. With the liberty so granted, the petitioner has come up with the present writ petition, challenging the order of removal from service.

6. Though it is true that the factum of death of the petitioner's husband was not brought to the notice of the Registry at the appropriate time, the fact remains that the order of removal from service was passed on 04.12.2006, long after the petitioner's husband died on 15.05.2006. It is, no doubt, true that this Court had no knowledge of the death of the petitioner's husband, when it passed the order of removal from service. But, it is seen from the record that the petitioner herself was not aware of the death of her husband. In a representation sent by her to the Registry on 10.08.2016, the petitioner claimed that she was informed of the factum of her husband's death by her mother-in-law, and that she did not know whether the information was correct or not. Therefore, it is no wonder that the

Registry did not know about the death of the petitioner's husband. But, irrespective of whether the Registry had knowledge or not, the death certificate shows that the petitioner's husband died on 15.05.2016. The order of removal was passed on 04.12.2006. The enquiry itself was held, only after the death of the petitioner's husband. Therefore, the order of removal cannot be sustained in law. The disciplinary proceedings, though initiated well in advance, abated, upon the death of the petitioner's husband. Hence, the order of removal from service has to go, and all the legal heirs will be entitled to the terminal benefits.

7. But, at the same time, the petitioner cannot claim appointment on compassionate grounds. This is for the reason that her claim for appointment on compassionate grounds stands rejected, by the order, dated 04.03.2014, passed in W.P.No.3356 of 2014. The issue has attained finality.

8. Therefore, the Writ Petition is partly allowed, setting aside the order of removal, and directing the respondent to grant the terminal benefits that the legal heirs of the petitioner's husband would be entitled to, upon the death. It is also made clear that the petitioner's husband or the family members will not be entitled to any benefit from the date the petitioner's husband went absconding, namely,

06.12.2005, on the principle of '*no work no pay*'. The Registry to settle the terminal benefits within a period of eight (8) weeks.

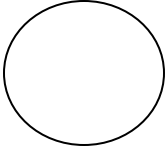
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J.

6th February, 2017
cbs





THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN ✓

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI



Writ Petition No. 25013 of 2014
(partly allowed)

6th February, 2017

cbs