

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.22731 of 2017

ORDER :

Heard the counsel for petitioner, and Sri A. Rama Rao, counsel for respondents.

2. The petitioner is employed as a conductor in the Andhra Pradesh State Road Transport Corporation.

3. At the time when he joined the service he mentioned that one Smt. Aruna would be his nominee in the nomination form for the APSRTC Employees Provident Fund Trust under the Gratuity Rules and APSRTC Staff Retirement Benefit Scheme, and other relevant records.

4. The petitioner contends that subsequently he came to know that the said lady had already been married before her marriage to him and also had a child and this was suppressed. He stated that without knowing the truth he had mentioned her as nominee, and subsequently, he wanted nomination to be changed by substituting one Smt. M. Prabhavathi in the place of Smt. M. Aruna on 24.05.2017; that the 3rd respondent refused to change the nomination unless death certificate of the said Smt. M. Aruna or divorce orders are produced from the Court, and that this action of the 3rd respondent is illegal.

5. The counsel for petitioner contends that it is his choice to nominate whosoever he chooses to be the nominee, and the

respondents have no right to prevent him from changing the same. He also referred to the finding in the order dt.23.07.2002 in M.C.No.7 of 2001 of the Judicial Magistrate of I Class, Pakala that the said Aruna had failed to establish the dissolution of her marriage with her former husband, and that she is not entitled to any maintenance from the petitioner. This finding is also confirmed in the order dt.28.04.2006 in Criminal Revision Petition No.82/2002 on the file the District and Sessions Judge, Chittoor, where however, the said Court held that the said Smt. Aruna was entitled to maintenance in view of her long relationship with the petitioner.

6. Sri A. Rama Rao, counsel for respondents, sought to contend that having declared the name of Smt. Aruna as nominee in the service records, now it is not open to the petitioner to change the same unless he establishes that the said person died or that the petitioner had obtained divorce from her.

7. No provision of any law or regulation is pointed out entitling the respondent to dictate to an employee as to who should be the nominee, or to prohibit an employee from changing a nominee.

8. In the absence of any such power conferred on the respondents, it is not open to respondents to refuse to permit the petitioner to change the nomination in the service records.

9. This is because it is settled law that a nominee is only entitled to receive service benefits in the event of death of the employee and

would only give valid discharge to the employer and the nominee does not become the legal heir merely on account of the nomination.

10. Therefore, the Writ Petition is allowed and the action of respondents in refusing to permit the petitioner to change the nomination by substituting Smt. M. Prabhavathi for Smt. M. Aruna in the Service Records in the APSRTC Employees Provident Fund Trust, under the Gratuity Rules and APSRTC Staff Retirement Benefit Scheme, and other relevant records is declared illegal, arbitrary and violation of Articles 14 and 21 of the Constitution of India; and the respondents are directed to effect the change in the nomination as per the petitioner's request in the letter dt.24.05.2017, addressed to the 3rd respondent.

11. This exercise shall be done within a period of three (03) weeks from the date of receipt of copy of the order. No order as to costs.

12. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 20-07-2017

Ndr/*