

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.35000 OF 2016

DATED : 18.01.2017

Between :

Smt Madugula Kanaka Durga W/o.Late Satyanarayana,
Aged about 78 yrs, Occu : Household,
R/o.Plot No.150, SBI Colony, Gandhinagar,
Hyderabad.

..
Petitioner

And

The Joint Director,
Pension Payment Office,
MG Road, Nampally, Hyderabad & another.

..
Respondents



This court made the following :

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ORDER :

Heard. With the consent of both the parties, the Writ Petition is disposed of at the admission stage.

2. This writ petition is filed to declare the action of the respondents in stopping payment of pension to the petitioner which was sanctioned vide Pension Payment Order No.20-F-002550 and was being deposited in Petitioner's Account No.01190034263 in State Bank of India, Old MLA Quarters Branch, Hyderabad, since 1984 without issuing any Notice or cancelling the Order by affording an opportunity to the petitioner as illegal and arbitrary.

3. Petitioner earlier filed O.A.No.6966 of 2006 before the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal') praying to grant the following relief :

"to declare the action of the respondents in suddenly stopping the payment of pension after continuously paying for a long time in pursuance of the payment order PPO No.20-F-002550 without assigning any reasons or issuing any notice to the applicant as illegal and arbitrary."

4. A counter affidavit was filed in O.A.No.6966 of 2006 on behalf of the respondents stating that person by name M.Kameshwari instituted O.S.No.313 of 1989 on the file of Principal Junior Civil Judge, Narsapuram, claiming that she is the legally wedded wife of the deceased employee and sought for disbursement of the family pension to her, instead of the petitioner herein. It was contended that the employee divorced the petitioner long ago. Therefore, the petitioner is not entitled for pension. A decree was passed in favour of Smt M.Kameshwari. It was

therefore stated before the Tribunal that the terminal benefits were paid to Smt M.Kameshwari as per the decree and having regard to the same, the O.A., was dismissed.

5. Though in two paras, the decision of the Tribunal is contended as not valid, the prayer sought in the writ petition is an independent prayer which is identical to the relief sought before the Tribunal. Petitioner having already exhausted the remedy available under the Administrative Tribunals Act, 1985, cannot independently institute the writ petition on the same issue. Furthermore, since admittedly, a decree was passed holding that Smt M.Kameshwari is entitled to terminal benefits of the ex-employee, even independently no relief as sought for can be granted as long as the decree passed in O.S.No.313 of 1989 stares at the petitioner. Thus, the writ petition is not maintainable and is liable to be dismissed.

6. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

18th January, 2017
Rds

P.NAVEEN RAO,J