

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.17635 of 2001

ORDER:

The Writ Petition is filed seeking a direction to respondents to sanction pension as per the Employees Family Pension Scheme, 1995.

Petitioners claim to have joined Andhra Patrika, Telugu Daily on different dates and resigned on 30.11.1994. They contend that the Organisation fell sick in the year 1991 but, however, the employees continued in service till November, 1994. The Organisation paid gratuity, arrears of salary and family pension for the period 1981 to 1991. Petitioners' grievance is that the Organisation failed to pay Provident Fund contribution and family pension for the period 1971 to 1981 as per Employees Family Pension Scheme, 1995. Hence the writ petition.

Counter affidavit has been filed by respondent Nos.1 and 2 stating that Employees Family Pension Scheme 1995 came into force with effect from 01.04.1993; as per Form No.10, statutory returns submitted by the respondent – Organisation, petitioners left their service on 31.05.1991; and, thus, they are not entitled to pension under the Employees Family Pension Scheme 1995.

Learned counsel for the petitioners contend that the employees, who are members of the Employees Family Pension Scheme, 1991, are entitled to opt Pension Scheme

1995; and the eligibility criteria is that an employee should have contributed provident fund as per the 1971 Act.

Sri T.Balaji, learned Standing Counsel for respondent Nos.1 and 2, would contend that as the petitioners were not in service as on the date of the Employees Family Pension Scheme, 1995 coming into force and as they worked only upto 31.05.1991, they are not entitled to the benefits under the Employees Family Pension Scheme, 1995.

While admitting the Writ Petition on 24.08.2001, notice was ordered to the respondents. By order dated 30.04.2009, this Court granted two weeks time for payment of batta with petition and correct address for service of notice on respondent No.3, in default, it was ordered that writ petition shall stand dismissed against respondent No.3 without further reference to the Court. Again on 29.12.2010, this Court permitted the petitioner to take out notice on respondent No.3 and file proof of service and, further directed that if, for any reason, notice was not served on respondent No.3, the writ petition shall stand dismissed against respondent No.3 without further reference to the Court. No petition was filed seeking to set aside the dismissal order dated 29.12.2010 as against respondent No.3.

No reply affidavit has been filed disputing the contents of the counter affidavit. The prayer in the writ petition is to sanction pension as per Employees Family Pension Scheme, 1995. As seen from the counter affidavit, Employees Family

Pension Scheme, 1995 came into force on 16.11.1995, and the petitioners left the service on 31.05.1991. Since the petitioners left the organization prior to the Employees Family Pension Scheme, 1995 coming into force, they are not entitled to any benefit under the Scheme.

The Writ Petition fails and is, accordingly, dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dt:16.02.2018
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KONGARA VIJAYA LAKSHMI, J