

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.13850 of 2005

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents in not giving the benefit under Circular dated 05.09.1997 as per the agreement of settlement with SJBCCI and SAAJAC Unions denying the monthly monetary compensation to the petitioner who opted for the same under the provisions by declaring the letter dated 27/28.07.1998 as illegal, arbitrary and contrary to law and sought consequential directions to the respondents to release the monthly compensatory allowances in terms of Circular dated 05.09.1997 forthwith.

Heard Sri M.V.Raja Ram, learned counsel for petitioner and Sri Nandigam Krishna Rao, learned Standing Counsel for respondents.

It has been contended by the petitioner that her husband was an employee of the respondents and he had expired on 29.06.1995 while discharging his duties with the respondents. The petitioner contends that she is an employee of State Government and she submitted a representation to the respondents to grant monthly monetary compensation to her in terms of Circular dated 05.09.1997, but the respondents have not considered the case of the petitioner and did not grant such compensation. Challenging the same, the present writ petition is filed.

Learned counsel for petitioner submits that the petitioner is entitled for monthly monetary compensation in terms of Circular dated

05.09.1997 and contend that appropriate orders be passed directing the respondents to grant monthly monetary compensation to the petitioner.

Learned Standing Counsel appearing for respondents contend that the petitioner is not entitled for monthly monetary compensation, therefore, her case was considered and rejected vide proceedings dated 27/28.07.1998. Counsel for respondents contend that monthly monetary compensation will be extended only to such of those female dependants in lieu of employment, who are almost fully dependent on the income of the deceased employee. In the present case, the petitioner is employed as a Staff Nurse with the State Government, and hence, she is not entitled for monthly monetary compensation.

Counsel for petitioner submits that the Circular do not differentiate wholly dependant on the deceased employee, but it only states that monthly monetary compensation will be paid to the dependants of the deceased employee in lieu of employment. Admittedly in the instant case, the petitioner is not seeking employment on compassionate ground. Since the petitioner is not seeking employment on compassionate ground, the case of the petitioner can be considered for grant of monthly monetary compensation in terms of Circular dated 05.09.1997 and contend that ends of justice would be met if the respondents are directed to re-consider the case of the petitioner by duly taking into account the Circular dated 05.09.1997 and pass appropriate orders.

This Court, having considered the rival submissions of the parties, is of the considered view that the respondents have rejected the case of

the petitioner without passing speaking orders and the respondents have rejected the case of the petitioner with a single line rejection order to the effect that the petitioner is not entitled for payment of monthly monetary compensation, as she was employed.

Therefore, this Court is of the considered view that this writ petition can be disposed of directing the petitioner to submit a fresh representation to the respondents within two weeks from the date of receipt of a copy of this order seeking monthly monetary compensation in accordance with Circular dated 05.09.1997, and upon such representation being received, the respondents shall consider the same and pass appropriate orders in another four weeks thereafter in accordance with law.

With these observations, the writ petition is disposed of. No order as to costs. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

24th December 2018

ajr