

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.7951 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records pertaining to letters bearing Nos. P15/II/2001-02/2572, dated 4.3.2002 and PIS/II/R-1577/FP 153/2000-11/1459 & 1460, dated 5.11.2001 on the file of the 2nd respondent, and to quash the same and consequently, to direct the respondents to release the family pension of Late K. Rajeshwari, Staff Nurse, E.S.I., Hospital, Warangal, to the petitioner.

2. Heard Sri B. Sudhakar Reddy, learned Counsel for the petitioner and Sri I. Nandu, learned Counsel for the respondents.

3. The case of the petitioner in brief is as follows:

One K. Rajeshwari worked as Staff Nurse in E.S.I. Hospital, Warangal, and while she was working as such, she adopted the petitioner in the year 1995 through an unregistered adoption deed as she was a spinster. Due to sudden illness, the said Rajeshwari expired on 19.4.1999 leaving behind her adopted daughter-petitioner herein, old mother and unmarried sister. After her death, some pensionary benefits were paid to the above three persons. But the terminal benefits amounting to Rs.64,350/- was not paid to them. The 2nd respondent informed through letter

dated 18.1.2002 that they have to obtain Special Succession certificate for payment of family pension of the said Rajeshwari. Accordingly, the mother, sister and adopted daughter of the said Rajeshwari filed O.P. No.25 of 1999 and the said O.P. was decreed declaring that the said three persons are entitled for family pension and another benefits of late Rajeshwari. When the said certificate was produced, the same was rejected by the 2nd respondent vide letter dated 9.5.2001. The petitioner got issued several notices to release the family pension. Ultimately, the 2nd respondent rejected the claim of the petitioner and others vide letter dated 4.3.2002. Aggrieved by the same, the present writ petition has been filed.

4. Learned Counsel for the petitioner contends that the letters impugned are contrary to the decree and judgment dated 19.4.2000 in O.P.No.25 of 1999 on the file of the Principal Junior Civil Judge, Warangal, and that the petitioner being the adopted daughter is entitled for the family pension of late Rajeshwari and further, the letters impugned are biased and defective in nature and therefore, they are liable to be set aside and the respondents may be directed to release the family pension of the deceased Rajeshwari to the petitioner.

5. Learned Counsel for the respondents contends that the adoption of the petitioner is not within the knowledge of the

respondents and that the deceased employee died in the year 1999 whereas the registration of adoption deed took place on 6.4.2000 and there are no bonafides in the claim of the petitioner. He further contends that the respondents are not the parties in the O.P. and therefore, the decree therein is not binding on them and that there are no merits in this writ petition and therefore, this petition is liable to be dismissed.

6. This Court has considered the rival submissions made by the parties and perused the material available on record. The petitioner is claiming family pension on the ground that she is the adopted daughter of the deceased employee. In the succession certificate as well as in the writ petition, in the cause title, it was stated that the petitioner being minor was represented by a natural father. When the petitioner is claiming to be the adopted daughter of spinster-K. Rajeshwari, she should have been represented by the mother or sister of the said K. Rajeshwari, and she ought not to have been represented by her natural father and guardian. Further, the petitioner has not produced her school records or service records of the said K. Rajeshwari to show that she is the adopted daughter of the said Rajeshwari. Therefore, the theory of the petitioner that she was adopted in the year 1995 by the said Rajeshwari under an unregistered adoption deed, which was subsequently impounded by

paying requisite stamp duty i.e., after the death of the Government employee, does not appear to be bonafide one.

7. Apart from that, the petitioner filed O.P.No.25 of 1999 seeking retiral benefits of the deceased employee along with the mother and sister of the deceased employee. Surprisingly, the petitioner along with family members of the deceased employee has not impleaded the State Government against whom the relief of family pension is being claimed. Therefore, the authorities had rightly rejected the case of the petitioner for grant of family pension to the petitioner in respect of the deceased employee. There are no merits in this writ petition.

8. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 3rd August, 2018.

Nn.

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3/08/2018

Nn.