

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION NO.15901 OF 2018

ORDER: (per SK,J)

The unsuccessful applicant in O.A.No.199 of 2018 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, is the petitioner. Her prayer in the said O.A. was to declare the order dated 09.02.2017 passed by the Accountant General, Andhra Pradesh, denying her family pension in relation to her deceased husband, late Kota Venkateswara Rao, Hindi Teacher in Vijayawada Municipal Corporation, as illegal. By order dated 23.03.2018, the Tribunal opined that the petitioner, being the second wife of the deceased employee, was not entitled to any relief and dismissed her O.A.

Perusal of the impugned communication dated 09.02.2017 of the Accountant General, Andhra Pradesh, reflects that he was of the opinion that the first wife of the deceased employee, Kota Nagendramma, who had obtained judicial separation from him, would still continue to enjoy the status of a wife in terms of Rule 50 of the Andhra Pradesh Revised Pension Rules, 1980 (*for brevity*, 'the Rules of 1980'), and therefore the petitioner, being his second wife, was not entitled to any family pension.

It is not in dispute that the first wife of the deceased employee predeceased her husband. The death certificate issued by the Registrar (Births & Deaths), Gram Panchayat Unguturu, bears out that she died on 10.09.2009. Late Venkateswara Rao died on 15.06.2015 as is borne out by the death certificate dated 01.07.2015 issued by the Registrar, Death's & Birth's Registration Wing, Gram Panchayat, Gollapudi. As on that date, he had only one surviving wife, the petitioner herein.

In that view of the matter, denying her family pension in relation to her husband, on the ground that he had a first wife who had taken judicial separation from him, is patently unsustainable. The order of the Tribunal sustaining the objection of the Accountant General is equally untenable. It may be noted that Rule 50(6) of the Rules of 1980 recognises that family pension would also be payable to more widows than one in equal shares. This being the situation, it is not open to the authorities to cast aspersions on the marital status of the petitioner and seek to deny her the pensionary benefits due to her.

The writ petition is accordingly allowed setting aside the order dated 23.03.2018 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.199 of 2018. There shall be a consequential direction to the authorities to forthwith release the family pension due to the petitioner in the status of being the only widow of late Kota Venkateswara Rao, Hindi Teacher in Vijayawada Municipal Corporation, upon completion of due formalities.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

M.GANGA RAO,J

Date:28.08.2018

GJ