

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.10250 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in issuing letter bearing No.Accts/SE/O/VJA/PRS/A2/F63/958/2000, dated 29.12.2000 and also the letter bearing No.Accts/SE/O/VJA/PRS/A2/F63/D.No.977/2000, dated 30.11.2000, as illegal and arbitrary, and to set aside the same, and consequently, to direct the respondents to issue necessary orders fixing the family pension at 50% of the pay of late R. Samba Siva Rao, U.D.C., for a period of 7 years from December, 1999 to December, 2006 and thereafter at 30% with the attendant benefits.

2. Heard Sri J. Prabhakar, learned Counsel for the petitioner and Sri S. Ravindranath, learned Counsel for the respondents.

3. It has been submitted by the petitioner that she is the second wife of R. Sambasiva Rao, who expired on 9.12.1999 and that the first wife of the said Samba Siva Rao died on 16.4.1982, and then, the said Sambasiva Rao married the petitioner on 13.8.1992, and after the death of Samba Siva Rao, family pension was divided into two equal halves viz., one half in favour of the petitioner and

another half in favour of the minor son of the first wife of the said Sambasiva Rao.

4. It has been contended by the petitioner that she submitted a representation dated 25.1.2001 to the respondents requesting to pay entire family pension to her and thereafter, the respondents issued the impugned letters rejecting her claim while contending that as per Rule 50(6) (b) of A.P. Revised Pension Rules, 1980, where the deceased Government Servant or pensioner is survived by a widow but has left behind eligible child or children from another wife, who is not alive, the eligible child or children shall be entitled to the share of Family Pension which the mother would have received if she had been alive at the time of the death of the Government Servant or Pensioner, and accordingly, the family pension was apportioned in two equal halves and one half was given to the petitioner and another half was given to the minor son of the first wife of the deceased employee, and challenging the same, the present writ petition has been filed.

5. Further, it is the contention of the petitioner that the minor son of the first wife of the deceased employee has attained majority and therefore, 50% pension, which is being paid to him, will not lapse and the same may be directed to be passed on to her.

6. This Court finds no illegality in the orders passed by the respondents. The respondents are justified in paying 50% family pension to the minor son of the first wife of the deceased employee and 50% to the petitioner. Therefore, this Court is not inclined to interfere with the orders under the letters impugned. However, if the minor son of the first wife of the deceased employee has attained majority, the petitioner is at liberty to submit a representation to the respondents within two weeks from the date of receipt of a copy of this order, seeking to pay full pension to her on the ground that 50% family pension, which is being paid to the minor son and which will not lapse on attaining the age of majority, can be passed on to her. On such representation being received, the respondents shall consider and pass appropriate orders in accordance with law, within a period of four weeks thereafter.

7. With the above observation, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

Dated: 24th July, 2018

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Dated: 24.7.2018

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