

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

I.A.Nos.1 and 2 of 2018 in/and W.P.No.9903 of 2017,
W.P. (TR).No.6062 of 2017 &
C.C.No.1446 of 2018

COMMON ORDER:

Heard Sri K.Lakshmi Manohar, learned counsel for the petitioners in W.P.No.9903 of 2017, Sri K.Sarath, learned counsel for the petitioner in W.P. (TR).No.6062 of 2017 and Sri Chatla Madhu, learned Standing Counsel appearing for respondent-GHMC.

2. Since the subject matter in all these cases is connected, they are being disposed of by this common order.

3. One P.Manik Rao had worked as a Field Worker in UMS Section, Circle No.18, GHMC. He expired on 14-12-2011. Smt. P.Varalakshmi, claims to be the first wife and the lawfully wedded wife of said deceased employee. Smt. P.Padma claims that there was a divorce between the deceased employee and Smt. P.Varalakshmi and that he married (i.e. Smt. P.Padma) her subsequently.

4. After the death of the deceased employee, the family pension was being paid to Smt. P.Padma on the basis of allegedly a notarized affidavit submitted by the deceased employee before his death, mentioning Smt. P.Padma as the beneficiary.

5. Smt. P.Varalakshmi gave a representation to the Hon'ble Chief Minister of Telangana and the District Collector, Adilabad,

seeking sanction of death benefits of the deceased employee to her claiming that she is the first wife and is eligible to receive the same.

6. The Deputy Commissioner, Circle No.18, North Zone, GHMC, examined the original Service Register and nomination forms of the deceased employee and noticed that the first wife and her children's names were entered in the nomination forms along with photographs signed by the Senior Entomologist at that time; that the name of the first wife and her children were not deleted at any point of time, and the deceased employee had also not submitted any declaration. Therefore, the Zonal Commissioner, North Zone, GHMC, recommended that the pension being paid to Smt. P.Padma be stopped till further orders are issued in the matter.

7. Smt. P.Padma challenged the same along with her daughter in O.A.No.2437 of 2016 before the A.P. Administrative Tribunal, Hyderabad (for brevity 'the Tribunal').

8. In the said O.A., she admitted that Smt. P.Varalakshmi is the first wife of the deceased employee but claimed that there was a divorce between Smt. P.Varalakshmi and the deceased employee and that subsequently she got married to the deceased employee.

9. After the Tribunal ceased to have jurisdiction over the State of Telangana, the said O.A. was transferred to this Court and re-numbered as W.P. (TR).No.6062 of 2017.

10. Smt. P.Varalakshmi and her children filed W.P.No.9903 of 2017 challenging the inaction of the respondents in sanctioning family pension to Smt. P.Varalakshmi and also the order dt.19-12-2015 passed by the Zonal Commissioner, North Zone, GHMC.

11. The Zonal Commissioner, GHMC, appeared before this Court and produced copy of the Service Register of the deceased employee which indicated the names of both Smt. P.Varalakshmi as well as Smt. P.Padma as family members. However, he claimed that the nomination forms of the deceased employee to which reference was made by the Deputy Commissioner, Circle No.18, North Zone, GHMC and which are referred to in the Zonal Commissioner proceedings dt.19-12-2015, are not available.

12. It is also contended that one Smt. Suguna, LDC, who worked as a Clerk in North Zone, GHMC, in the UMS Department, colluded with Smt. P.Padma and removed the nomination forms according to the learned counsel for Smt. P.Varalakshmi.

13. Notice to the said Smt. Suguna, who is impleaded as 4th respondent in W.P.No.9903 of 2017 could not be served, and it is stated that she has retired from service.

14. In the counter affidavit filed by the GHMC in W.P.No.9903 of 2017, it is stated that in the Service Register of the deceased employee, the names of both Smt. P.Varalakshmi and Smt.

P.Padma are existing and that Smt. P.Padma had submitted the Legal Heir Certificate by the Revenue Department, Government of A.P. and Smt. P.Varalakshmi had not submitted any Succession Certificate. It is stated that the matter was referred to the Standing Counsel for GHMC for legal opinion and based on his opinion, the cheques and benefits were issued in favour of the daughter of Smt. P.Padma.

15. The payment of family pension is admittedly governed by Rule 50 of the Telangana Revised Pension Rules, 1980. Clause (6) (a) therein states that where family pension is payable to more widows than one, family pension shall be paid to the widows in equal share. However, it is not disputed that as a Government employee, contracting bigamous marriages is prohibited under Rule 25 of the A.P. Civil Service (Conduct) Rules, 1964, as adopted by State of Telangana, even if such subsequent marriage is permissible under personal law permission of the Government is not obtained.

16. In the instant case, there is no evidence of any such permission having obtained by the deceased employee to contract the marriage with Smt. P.Padma and there is also no evidence of any dissolution of marriage by a Court decree of divorce between Smt. P.Varalakshmi and the deceased employee. Therefore, in my considered opinion, Smt. P.Padma cannot be treated as widow of the deceased employee at all since her marriage to the deceased employee is void under Section 5 of the Hindu Marriage Act, 1955.

17. The officials of the GHMC and the State Government could not have accepted Smt. P.Padma as the person entitled to the family pension on the basis of Legal Heir Certificate issued by the Revenue Department, Government of A.P.

18. When it is admitted case of Smt. P.Padma also that Smt. P.Varalakshmi is the lawfully wedded wife of the deceased employee (in view of her admission in affidavit filed in O.A.No.2437 of 2016), the question of Smt. P.Varalakshmi producing any Succession Certificate to get the family pension does not arise.

19. Though the learned counsel for Smt. P.Padma sought to contend that a different plea was taken in the counter affidavit filed by her in W.P.No.9903 of 2017 that Smt. P.Varalakshmi is in fact third wife of the deceased employee, I am not willing to accept the said statement in view of the admission made by her in the affidavit filed in O.A.No.2437 of 2016 admitting that Smt. P.Varalakshmi is the first wife of the deceased employee.

20. Though learned counsel for Smt. P.Padma also sought to contend that during his lifetime, the deceased employee represented on 11-11-2010 that there was a divorce between himself and his first wife and that he married Smt. P.Padma, and therefore her name should be entered in the Service Register, in the absence of any divorce decree between the deceased employee and Smt. P.Varalakshmi produced by him, Smt. P.Padma cannot be accepted as the lawfully wedded wife of the deceased employee and cannot seek

the benefit under Rule 50 (6) (a) of the Telangana Revised Pension Rules, 1980.

21. Smt. P.Padma also relied upon alleged Marriage Certificate at page-22 filed with the counter affidavit filed in W.P.No.9903 of 2017 of marriage between herself and the deceased employee. But it cannot be taken into account because said document is only a notice of the intended marriage under the Special Marriage Act, 1954, and is not a Certificate of Marriage.

22. Even otherwise, as pointed out above, in the absence of divorce decree between the deceased employee and his first wife Smt. P.Varalakshmi, the marriage with Smt. P.Padma is void in law and does not entitle her to any benefit.

23. In view of the said circumstances, W.P.(TR).No.6062 of 2017 is dismissed and W.P.No.9903 of 2017 is allowed and the respondents are directed to pay family pension to Smt. P.Varalakshmi including arrears of family pension from the date of the first payment made of such family pension to Smt. P.Padma or her daughter and recover the amounts wrongly paid to Smt. P.Padma or her daughter.

24. Further, pending the Writ Petitions, there was an interim direction granted on 29-02-2018 in I.A.No.1 of 2017 in W.P.No.9903 of 2017 to consider the case of Smt. P.Varalakshmi for grant of family pension and continue to pay her same every month regularly.

25. To vacate the said order, I.A.No.1 of 2018 was filed by the GHMC counsel and I.A.No.2 of 2018 was filed by Smt. P.Padma and her daughter.

26. For the aforesaid reasons, I.A.Nos.1 and 2 of 2018 are dismissed and the order in I.A.No.1 of 2017 is modified as above.

C.C.No.1446 of 2018:

27. This Contempt Case is filed alleging non-implementation of the order dt.20-02-2018 in I.A.No.1 of 2018 in W.P.No.9903 of 2017.

28. Having regard to the fact that there was a doubt about the eligibility of Smt. P.Varalakshmi to receive family pension and that has now been resolved by the common final order passed in all these cases, I do not propose to initiate any action for contempt against the respondents in the Contempt Case.

29. Accordingly, the Contempt Case is closed. No costs.

30. As a sequel, the miscellaneous petitions pending, if any in all these cases, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 21-12-2018

kvr