

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.29372 of 2013

ORDER

This writ petition is filed seeking the following relief:

“...to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent authorities in rejecting the application of the petitioner for lump sum monitory benefit because her husband died while in service of APSRTC as illegal, arbitrary and unconstitutional and consequently declare that mere employment of one of the sons who left the family will not disentitle the petitioner to get the monitory benefit and direct the respondents to pay lumpsum monitory benefit with penal interest for the last 10 years and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

Heard Sri K.S.Murthy, learned counsel appearing for the petitioner and Sri P.Durga Prasad, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that her deceased husband was employed as Helper and had put in 30 years of service in the respondent-Corporation and while discharging his duties as such, he had expired on 16.06.1998. Thereafter, she filed W.P.No.22123 of 2011 seeking lump sum monetary death benefits of her husband. This Court *vide* order dated 29.08.2011 disposed of the writ petition directing the respondent-Corporation to consider the representation of the petitioner dated 29.03.2004 and pass appropriate orders. In

pursuance of the said order, the respondent-Corporation considered and rejected her case *vide* order dated 16.12.2011 on the ground that one of her sons was employed in Government service i.e., Army Reserved Constable. Challenging the same the present writ petition is filed.

Learned counsel appearing for the petitioner contends that the son of the petitioner, who is employed in Army Reserved Constable is living separately; that mere employment of her son would not disentitle the petitioner to receive death benefits of her husband; and that appropriate orders be passed directing the respondent-Corporation to pay additional monetary benefit to the petitioner in accordance with law.

Learned Standing Counsel appearing for the respondent-Corporation contends that since one of the family members is employed, the petitioner is not entitled for lump sum monetary benefit in terms of Circular dated 13th July, 1998; and that there are no merits in the writ petition and the same is liable to dismissed.

As per Clause (10) of the Circular dated 13th July, 1998, the additional monetary benefits will be sanctioned whenever it is not possible to provide employment to the spouse/children of employees died in harness on or after

13.8.1981. In the instant case, the respondent-Corporation neither provided employment nor paid lump sum monetary benefit. The respondent-Corporation cannot reject the case of the petitioner for payment of lump sum monetary benefit on the premise that one of her sons was employed in Government service. In view of the said Circular, the petitioner is entitled to lump sum monetary benefit.

In view of the foregoing discussion, the Writ Petition is allowed and the impugned rejection order dated 16.12.2011 is set aside. The respondent-Corporation is directed to pay lump sum monetary benefit to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

29th November, 2018
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