

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.35458 OF 2018

Dated 12th November 2018

Between:

Kaipa Venkatrami Reddy, S/o.K.Ranga Reddy.

...Petitioner

And

1. The State of Andhra Pradesh, rep.by its Principal Secretary,
Panchayat Raj and Rural Development Department, Secretariat,
Amaravathi, Velagapudi, Guntur District, Andhra Pradesh and four
others.

...Respondents

The Court made the following:



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ORDER:

Heard Sri B.Ranga Swamy, learned counsel for the petitioner, learned Government Pleader for Panchayat Raj for R-1, learned Government Pleader for Revenue for R-2 and R-3, Sri G.Seshadri, learned Standing Counsel for R-4 and R-5 and, with their consent, the Writ Petition is disposed of at the stage of admission.

2. The State of Andhra Pradesh introduced a Scheme called “NTR Bharosa Pension Scheme” whereunder monthly pension is given to old aged persons, widows, weavers toddy tappers, ART cases and disabled persons. In so far as people with disability are concerned, minimum requirement of disability is 40% for securing eligibility for payment of pension. The petitioner applied for grant of pension under the Scheme claiming that he has more than 40% disability. His application was processed and pension was granted. However, later the pension was stopped. Alleging the inaction of the respondents in granting pension as per his eligibility and declaring him as ineligible as erroneous, this Writ Petition is filed.

3. The fifth respondent filed counter affidavit.

4. According to the learned Standing Counsel, the petitioner had lost one eye. Similar such claims were filed before the Janmabhoomi Committee. All of them have filed certificates issued by the District Medical Board, Government General Hospital, Kurnool. In all such cases, disability was shown as 30% whereas in the case of the petitioner, disability was shown as more than

40%. Having noticed this by the Janmabhoomi Committee, the Committee objected for grant of pension to the petitioner and referred the matter to the Mandal Parishad Development Officer (MPDO), who in turn sent the same to the District Medical Board, Government General Hospital, Kurnool pointing out the inconsistency in the disability certificates issued and requested to look into the issue. According to the MPDO, there was inconsistency with regard to the disability certificate issued to the petitioner and requested the District Medical Board to re-examine the petitioner and furnish fresh medical certificate. In addition to this, it is also the case of the respondents that the family of the petitioner owns more than Acs.5.00 land and therefore, the petitioner is ineligible for the benefit of the Scheme.

5. According to the learned counsel for the petitioner, once a disability certificate is issued, it is not open to the Janmabhoomi Committee to stop the pension unless and until the said certificate is cancelled. He would further submit that the petitioner does not own any land and his wife owns land to an extent of Acs.5.00 and there is no other land owned by the family and therefore, he ought not to have been disqualified by the Board.

6. The NTR Bharosa Pension Scheme is a beneficial scheme to aid persons who are old aged, widows and persons with disability etc. A person must have the requisite disability as prescribed to claim pension under the Scheme. When a doubt arises, it cannot be said that the competent authority is not entitled to refer for medical examination. Further, from the reading of para-5 of the counter-affidavit, it appears that on similar disability, the Medical Board has given certificate showing the

disability as 30% whereas in the case of the petitioner, more than 40% disability was shown. Fairness in the examination by the Medical Board cannot be doubted. With regard to the ownership of the land, it is a matter for consideration and therefore, this Court cannot go into the said aspect.

7. Having regard to the above, the Writ Petition is disposed of with the following order:

(i) The MPDO shall direct the Office Superintendent, Government General Hospital, Kurnool to constitute a Medical Board, as early as possible, with an advance intimation to the petitioner fixing the date for medical examination and the petitioner shall be examined by the Medical Board on the date so fixed. The petitioner shall appear before the Medical Board on the date fixed for assessment of his disability. The Medical Board shall examine the petitioner for assessment of his disability and furnish its report to the MPDO. This entire exercise shall be completed within four (4) weeks from the date of receipt of a copy of this order.

(ii) After the Medical Certificate is issued certifying his disability as 40% or more, the petitioner shall appear before the MPDO with all the documents to show the land holding status of the petitioner's family.

(iii) On consideration of the Medical Board Report and on consideration of the material placed before the MPDO on the land holding status of the petitioner, the MPDO shall pass orders by assigning due reasons.

(iv) In the event the petitioner is identified as eligible to secure pension as person with disability, the petitioner shall be paid

pension from June, 2018 and continue to be paid in terms of the scheme enumerated by the Government.

There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(P.NAVEEN RAO, J)

12th November 2018
RRB

