**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITON No. 5971 of 2002**

**O R D E R:**

This writ petition is filed seeking to issue a writ of *Mandamus* declaring the action of respondents in not re-fixing the pension of the husband of the petitioner and family pension of the petitioner in terms of the A.P. Revised Pension Rules, 1980 (for short 'the Revised Pension Rules') and not paying the difference arising out of said re-fixation to the petitioner, as illegal and arbitrary and against the judgment rendered in W.P.Nos.8665 of 1996, 8722 of 1996 and 12789 of 1996 dated 28.11.1997. A consequential direction is also sought to the respondents to re-fix the pension of the husband of the petitioner and the family pension of the petitioner with effect from the date of initial payment as applicable under the Revised Pension rules and pay the difference arising out of said re-fixation with interest.

2. Heard Mr. P.V.S.S.S. Rama Rao, learned counsel for the petitioner, and learned Government Pleader for Education appearing on behalf of the respondents.

3. It is stated that the husband of the petitioner expired on 20.07.1999. He worked as Lecturer in Economics in the 3rd respondent college and retired from service on attaining the age of superannuation. But, the respondents were denying the benefit of the Revised Pension Rules to the petitioner on the ground that her husband expired on 20.07.1999 i.e., before 01.11.1992 on which date the Revised Pension Rules came into effect for private aided junior and degree colleges.

Learned counsel for petitioner submitted that the issue involved in this case fell for consideration before this Court in W.P.Nos.8665 of 1996, 8722 of 1996 and 12789 of 1996 and this Court allowed the said writ petitions vide common order dated 28.11.1997 and, therefore, similar orders may be passed in the present case also. Further, the proposals in respect of re-fixation of pension were recommended by respondent No.3-college to respondent No.2 and the same are still pending.

4. On the other hand, learned Government Pleader for Education appearing on behalf of respondents contended that the petitioner is not entitled for the benefit of re-fixation of

pension, as per the Revised Pension Rules. Revised Pension Rules are made applicable in respect of private aided junior and degree colleges only w.e.f. 01.11.1992. As the husband of the petitioner died on 20.07.1999, the Revised Pension Rules cannot be made applicable in retrospection. In view of the same, the writ petition is liable to be dismissed.

5. The operative portion of the judgment dated 28.11.1997 passed in W.P.Nos.8665 of 1996, 8722 of 1996 and 12789 of 1996 reads as follows:

> *"For the foregoing reasons, the writ petitions are allowed to the extent indicated above. Consequently, the following directions shall issue to the respondents.*
>
> *1) That the Teachers and other staff working in the Private Aided Colleges, who retired from service between 29.10.1979 and 01.11.1992 shall also be eligible for the benefit of R.P.R.80 with effect from the respective dates of their retirements and their pension shall be notionally fixed taking into account the increases if any made from the date of their retirement till 1.1.92. The actual monetary benefits of refixed pension as on 1.11.92 shall be released to them. The arrears arising out of the refixation as directed above, shall be paid to them within three months. In case any pensioner who has retired during the period and expired as on the date of arrears arising out of the said refixation shall be paid to the wife or legal heirs of the deceased pensioner.*
>
> *2) The Gratuity shall be revised in terms of R.P.R. 80 and the difference shall be paid to the pensioner or in the event of his death to this wife or legal heirs of the deceased pensioner in accordance with the Rules within a period of three months from the date of receipt of copy of this order. The family pension as applicable under R.P.R. 80 shall be refixed and*

> *the difference arising out of the said refixation shall be paid to the eligible persons in accordance with the Rules.*
>
> *3) In cases where the recovery proceedings have been initiated, the authorities shall refix the pension and gratuity and family pension as directed above and if it is found that if the excess amounts were paid under 1961 Rules or on account of bonafide mistakes, the same shall be recovered after giving due notice to the employees or the other concerned persons."*

6. Having considered the rival submissions made by the parties and having perused the judgment cited supra, this Court is of the considered view that the writ petition can be disposed of directing respondents 1 and 2 to consider the case of the petitioner for grant of re-fixation of family pension of the petitioner and other terminal benefits, such as, gratuity, by duly applying the Revised Pension Rules as was done in the case of the petitioners in W.P.Nos.8665 of 1996, 8722 of 1996 and 12789 of 1996, and pass appropriate orders, within eight (8) weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition is disposed of. No costs.

8. Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

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**ABHINAND KUMAR SHAVILI, J**

05.12.2018
*Mjl/**