

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.2202 OF 2018

ORDER

This writ petition is filed seeking the following relief:

“...to issue writ, order or direction preferably writ of mandamus declaring the action of the respondents 1 and 2 in not releasing family pension in favor of petitioners 2 to 4 w.e.f December 2016 and not settling GPF amount payable to the petitioners despite representations dated 09.02.17, 21.02.2017 and 20.11.2017 and 18.12.2017 is illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents 1 and 2 to release said family pension and continue the same as usual and release GPF amount in favour of petitioners 2 to 4 and also provide compassionate appointment to the 2nd petitioner and pass such orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri M.M.M.Srinivasa Rao, learned counsel appearing for the petitioners, and Sri Zakir Ali Danish, learned Standing Counsel appearing for respondents 1 and 2.

It is the case of the 1st petitioner that her husband was employed with the respondents 1 and 2 as Store Keeper and while discharging his duties, he expired on 27.6.1999. Since the first wife of the deceased had deserted him, the deceased married the 1st petitioner. Respondent No.3 is the first wife, respondent Nos.4 and 5 are her son and daughter. Petitioners 2 to 4 are children of the deceased and the 1st petitioner. Since there were disputes between the children of the first wife and the second wife, both the parties have approached the

competent Civil Court by filing O.S.No.31 of 2000 before the Family Court, Secunderabad. The Family Court *vide* judgment dated 30-09-2002 declared the petitioners 2 to 4 and respondents 4 and 5 as legal heirs of the deceased employee.

The grievance of the petitioners is that though respondents 1 and 2 sanctioned family pension in favour of petitioners 2 to 4 and paid upto December, 2016 and later on, they stopped the disbursement of family pension. The petitioners have submitted series of representations requesting the respondents to pay the family pension, but the respondents are not paying the same.

While admitting the writ petition on 25.01.2018, this Court granted interim direction, which reads as under:

“Sri Zakir Ali Danish, learned counsel,
takes notice for respondent Nos. 1 and 2.

Issue notice to respondent Nos.3 to 5.

As per the judgment dt.30.09.2002 in O.S.No.31 of 2000 of the Family Court, Secunderabad, since petitioner Nos.2 to 4 and respondent Nos.3 to 5 are held to be legal heirs of late G.Anjaiah, half of the family pension as well as GPF amount has to be apportioned equally between the petitioners and respondent Nos.3 to 5 by 1st respondent. Therefore, only half of the same shall be paid to respondent Nos.3 to 5 pending further orders and the other half be paid to petitioners.”

Learned counsel appearing for the petitioners submits that since the respondents are not complying with the orders passed by this Court on 25.1.2018, and not passing any orders on the representations submitted by the petitioners, the petitioners have filed C.C.No.2565 of 2018. Instead of complying with the orders passed by this Court, the respondents have filed vacate stay petition.

Learned Standing Counsel appearing for respondents 1 and 2 contends that the respondents have disbursed the family pension upto December, 2016 and since petitioners 2 to 4 have attained the majority and they have crossed the age of 25 years, the respondents stopped the disbursement of family pension and that the family pension is payable to the persons who are less than 25 years of age. Since the petitioners are not entitled for family pension as they have attained the majority, the writ petition is misconceived and the same is liable to be dismissed. It is further contended that since the petitioners are not submitting any application seeking GPF amount, the respondents have not paid the same. It is also contended that the petitioners have not submitted any application seeking appointment on compassionate grounds to the 2nd petitioner and as and when such an application is filed, the respondents

would consider the same and pass appropriate orders in accordance with the scheme of compassionate appointment.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that since petitioners 2 to 4 have attained the age of majority, they are not entitled for family pension. It is open for the petitioners to file an application seeking GPF amount and also staking their claim for appointment to the 2nd petitioner on compassionate grounds within a period of two weeks from the date of receipt of a copy of this order. On receipt of such an application, the respondents shall consider the same and pass appropriate orders within a period of eight weeks thereafter.

With the above observations, this Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 8.11.2019
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