

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.2960 OF 2019

ORDER:

This writ petition is filed seeking a writ of mandamus to declare the action of the respondents in not releasing the family pension to the petitioner as arbitrary, illegal and violative of 14, 16 and 21 of Constitution of India and sought for a consequential direction to the respondents to release family pension to the petitioner from the date of death of her husband i.e., 20-04-2012 with all consequential benefits including interest @ 18% per annum from the date of entitlement till its realisation.

Heard Sri M.V.Praveen Kumar, learned counsel for the petitioner and the learned Government Pleader for Services-I.

It has been contended by the petitioner that she is the legally wedded wife of one B.Lingam who was employed with the respondents. The petitioner contends that her husband was expired on 20.04.2012 and she is entitled to receive family pension and pensionary benefits. She further contends that the 6th respondent is also claiming to be the wife of her husband and in view of the said claim, the respondents are not disbursing family pension and other pensionary benefits. It is contended that petitioner had filed O.A.No.8152 of 2012 before the Andhra Pradesh Administrative Tribunal seeking pensionary benefits consequent upon the death of her husband. The said O.A. was dismissed vide order dated 28.11.2014 giving liberty to the petitioner to approach the competent Civil Court and obtain succession certificate for sanction of family pension. Thereafter, petitioner had filed O.S.No.885 of 2015 before the II Junior Civil Judge, City Civil Court, Hyderabad seeking to

declare her as the legally wedded wife of deceased employee i.e., B.Lingam.

Learned counsel appearing for the petitioner submits that the competent Civil Court was pleased to decree the suit on 04.06.2018 by declaring the petitioner as legally wedded wife of the deceased B.Lingam and petitioner is entitled for family pension benefits from the date of death of late B.Lingam i.e., from 20.04.2012 without excluding the share of third defendant i.e., 6th respondent herein in family pension of late B.Lingam as per pension rules. He further contends that in view of the declaration by the competent Civil Court that the petitioner is the legally wedded wife of deceased employee, this Court may issue appropriate direction to the respondents to sanction family pension in favour of the petitioner.

Learned Government Pleader appearing for the respondents submits that petitioner ought to have obtained succession certificate from the competent Civil Court where the competent Civil Court would have apportioned the entitlement of family pension if at all the petitioner and the 6th respondent are entitled as per succession certificate. The petitioner instead of obtaining succession certificate from the competent Civil Court has filed a suit to declare her as legally wedded wife of late B.Lingam and the competent Civil Court in O.S.No.885 of 2015 had also not decided the rights of the petitioner to seek family pension. In respect of entitlement of family pension, the competent Civil Court never held that petitioner alone is entitled for family pension. In fact, a finding is recorded to the effect that petitioner is entitled for family pension without excluding the share of 3rd defendant i.e, contesting respondent No.6 herein. He further contends that when there is a dispute among two wives of the deceased employee, it is not for official respondents to adjudicate the

issue as to which wife is entitled for family pension and the only course open for the petitioner is to approach the competent Civil Court and obtain succession certificate so as to disburse the family pension as per the succession certificate.

This Court, having considered the rival submissions of both the parties, is of the considered view that declaration in O.S.No.885 of 2015 is of no help to the petitioner as the Civil Court never held that petitioner alone is entitled for family pension benefits whereas it has recorded a finding that the petitioner is entitled to receive family pension without excluding the share of the contesting 6th respondent. When the 6th respondent is also claiming to be the wife of late B.Lingam and seeking family pension, it is not for the official respondents to adjudicate the dispute between the petitioner and the 6th respondent and the only course open to the petitioner is to approach Civil Court and obtain succession certificate so that family pension and other pensionary benefits be paid as adjudicated by the Civil Court in succession certificate.

In view of the above, this Court is not inclined to grant any relief in the writ petition. Accordingly, Writ Petition is dismissed giving liberty to the petitioner to approach Civil Court and obtain succession certificate. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI,J

Date: 19.02.2019

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