

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION.(TR).No.5418 of 2017

ORDER:

Heard Sri Balagangadharaiah, learned counsel for the petitioner and the learned Government Pleader for Services-II.

With the consent of learned counsel for the respective parties, this Writ Petition is disposed of at the admission stage.

This writ petition is filed seeking the following relief :-

“.....to declare that the action of the 2nd respondent in according sanction of Rs.7095/- as against the admissible amount of Rs.9460/- per month, towards family pension of the applicant is arbitrary, discriminatory, contrary to sub rule (8) of Rule 9 of A.P.Revised Pension rules, 1980 and also not according sanction of gratuity payable to the applicant is in violation of the provisions of Article 21 and 300A of the Constitution of India and consequently direct the 1st and 2nd respondents to accord sanction of Rs.9460/- per month from the date of retirement towards family pension and Gratuity admissible under rule along with 18% of interest from 30.09.2012 on delayed payments and costs, within a reasonable time and pass such other or orders”

It has been contended by the petitioner that her husband was employed as a Junior Assistant with the respondents and he retired from service on 30.06.2011 on attaining the age of superannuation. She further contends that the disciplinary authority had initiated disciplinary proceedings against her husband way back in the year 2007

and the said disciplinary proceedings could not be concluded before the retirement of her husband. Even before the conclusion of said proceedings, her husband expired on 29.09.2012 after retirement. The petitioner further contends that she has submitted an application seeking sanction of family pension and gratuity as per the Rules.

Learned counsel for the petitioner contends that the disciplinary proceedings said to have been initiated against the petitioner's husband stands abated by the death of petitioner's husband. Therefore, he contends that appropriate orders be passed in the writ petition directing the respondents to sanction family pension and gratuity as per the Rules by duly considering the disciplinary proceedings initiated against the petitioner's husband as abated with his death.

Learned Government Pleader appearing for the respondents contends that since the petitioner's husband expired and the disciplinary proceedings are still pending, the respondents would consider the same and pass appropriate orders in accordance with law and also consider the case of the petitioner for sanction of family pension and gratuity of her late husband in accordance with the Rules within a reasonable period.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of

the considered view that this writ petition can be disposed of directing the respondents to conclude the disciplinary proceedings initiated against the petitioner's husband by treating the same as abated, as the petitioner's husband expired pending disciplinary proceedings and also consider the case of the petitioner for grant of family pension and gratuity of her late husband in accordance with the Rules within a reasonable period, preferably within a period of eight weeks from the date of receipt of a copy of this order. However, it is needless to say, if the petitioner is entitled for interest for the delayed payment, the case of the petitioner has to be considered for grant of interest for the delayed payment as per law.

With the above direction, this writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 16-12-2019
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