

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.33931 OF 2016

ORDER

This writ petition is filed seeking the following relief:

“...to issue order or direction more particularly one in the Writ of Mandamus directing the respondents 2 to 4 to consider the claim of the petitioner to pay the petitioner's eligible share in retirement benefits as well as in family pension and also for appointment on compassionate grounds on account of death of the petitioner's father by holding the action of the respondent Nos.2 to 4 in not doing the same as illegal, arbitrary and violation of Article 14 of the Constitution of India and to pass such other order or orders as this Hon'ble Court may deem fit and proper.”

Heard Sri M.Venkat Ram Reddy, learned counsel appearing for the petitioner, learned Government Pleader for Services-I appearing for respondents 1 to 3, 5 and 6 and Sri G.Narender Reddy, learned Standing Counsel appearing for respondent No.4.

It is the case of the petitioner that his father, while working as Teacher in Z.P.High School, Kodangal, has expired on 22.04.2016. Hence, he submitted a representation on 29.08.2016 to the respondents seeking family pension and appointment on compassionate grounds. But the respondents have neither considered the said representation nor passed any orders on the ground that 7th respondent, who is claiming

to be the second wife of the deceased employee, is also seeking appointment on compassionate grounds.

Learned counsel appearing for the petitioner contended that the 7th respondent is not eligible for appointment on compassionate grounds and petitioner alone is fully eligible, qualified to be appointed and entitled for family pension of his deceased father. It is prayed that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for appointment on compassionate grounds and to pay family pension and pensionary benefits to him as per Rule 50 (6)(b) of Revised Pension Rules.

Learned Government Pleader as well as learned Standing Counsel appearing for the respondents contended that since the 7th respondent is claiming to be the second wife of the deceased employee and whenever there is a rival claim, it is for the parties to approach the competent civil Court and after adjudication, get succession certificate, so that the authorities can act accordingly and pay pensionary benefits and family pension in proportion as determined by the competent civil Court. It is further contended that since there is a rival claim, it is not for the respondents to adjudicate as to

who is more eligible for appointment on compassionate grounds.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that when there is a rival claim for appointment on compassionate grounds and also for payment of family pension and pensionary benefits, it is not for this Court to adjudicate the dispute. It is for the parties to approach the competent civil Court and obtain succession certificate. There are no merits in this writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, it is always open for the parties to approach the competent civil Court and obtain succession certificate in accordance with law. No costs.

Miscellaneous petitions, pending, if any shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 03.12.2019
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