

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.1022 of 2017

ORDER:

This writ petition is being disposed of at the admission stage with the consent of both the parties.

2. The writ petition is filed with the following prayer:

"...the Hon'ble Court may be pleased to to issue a writ order or direction more particularly one in the nature of writ of Mandamus by declaring the impugned Memo No. 8331/0P1/20151 dt.26.02.2016 issued by the 1st respondent as illegal arbitrary misinterpreting the Government orders opposed to the principles of natural justice and consequently hold that the petitioner is entitled to be received family pension being widowed/diverse daughter comes under Category-II as per Rules so as to enable to get family pension as no independent source of income to her with all benefits and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. Heard Mr. S. Harinath Reddy, learned counsel for the petitioner and learned Government Pleader for Services III.

4. Petitioner contends that she is the daughter of the deceased Government employee and that her father expired on 24.04.1998, while discharging his duty as Assistant Secretary to Government and that her mother was granted family pension and that her mother also expired on 26.08.2011. The petitioner submits that she is the divorced daughter of the deceased employee and she has no independent means of livelihood. In those set of circumstances, the petitioner submitted an application to the respondents to grant family pension, as she, being a divorced daughter of the deceased employee, is entitled for grant of family pension in terms of G.O.Ms.No.315 dated 07.10.2010. The respondents have considered the case of the petitioner and rejected her request vide order dated 26.02.2016 on

the ground that the mother of the petitioner had been granted family pension and only in cases where the spouse predeceases the pensioner, the family pension is liable to be paid to the sons/daughters. As the petitioner's mother was granted family pension, the question of paying family pension to the petitioner would not arise. Challenging the same, the present writ petition is filed.

5. The counsel for the petitioner had drawn the attention of this Court to the amended rules issued vide G.O.Ms.No.353 Finance (P.S.C.) Department dated 04.12.2010 wherein clause 6 reads as under:

"6. If there are no eligible family members falling within Category-I of rule 50(12) of the Andhra Pradesh Revised Pension Rules, 1980, then the Family Pension is payable to the family members specified in Category-II of Rule 50(12) of the Andhra Pradesh Revised Pension Rules, 1980, subject to the conditions specified in Rule 50(5) of the Andhra Pradesh Revised Pension Rules, 1980 Viz.

- (i) to the un-married / widowed / divorced daughter (not covered by Category -I) upto the date of marriage / re-marriage or till the date she starts earning or upto the date of death provided they are wholly dependent on the employee / Pensioner;
- (ii) to the parents who were wholly dependent on the Government Servant when he / she was alive, upto the date of death, provided the deceased employee has left behind neither a widow nor a child."

6. The counsel for the petitioner submits that a perusal of the above clause would make it abundantly clear that family pension shall be payable to the members specified in Category-II of Rule 50(2) subject to the condition that un-married/widowed/divorced daughter (not covered by Category -I) up to the date of marriage/re-marriage or till the date she starts earning or up to the date of death provided they are wholly dependent on the pension of the employee.

As the petitioner was totally dependant on the pensioner i.e. mother of the petitioner till she expired on 26.08.2011 and as per clause 6, the petitioner is entitled for family pension, the respondents are unjustified in rejecting to grant family pension to the petitioner.

7. Therefore, the counsel for the petitioner would submit that let appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner in terms of G.O.Ms.No.353 dated 04.12.2010 and pass appropriate orders in accordance with law.

8. The learned Government Pleader appearing for the respondents submits that earlier rejection order dated 26.02.2016 was passed based on G.O.Ms.No.315 dated 07.10.2010. However, if the petitioner submits another representation seeking family pension in terms of G.O.Ms.No.353 dated 04.12.2010, the case of the petitioner would be considered and appropriate orders would be passed in accordance with law.

9. This Court, having considered the rival submissions made by both parties, is of the view that the writ petition can be disposed of directing the petitioner to submit a fresh representation seeking family pension strictly in terms of clause 6 of G.O.Ms.No.353 dated 04.12.2010 within a period of two (2) weeks from the date of receipt of a copy of this order and upon such representation being received, the respondents shall consider the case of the petitioner afresh in terms of clause 6 of G.O.Ms.No.353 dated 04.12.2010 and pass appropriate orders, without being influenced by the earlier rejection order dated 26.02.2016, within a period of eight (8) weeks thereafter.

With the above observations, the writ petition is disposed of.
Pending miscellaneous petitions shall stand closed. There shall be no
order as to costs.

ABHINAND KUMAR SHAVILI, J

July 15, 2019
DSK

