

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.32231 OF 2017

ORDER:

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

This writ petition is filed seeking a writ of Mandamus declaring the action of respondent No.4 in passing the rejection orders dated 13.04.2016, for granting the family pension to the petitioner, by wrongly following G.O.(P) No.523, dated 22.06.2004, as illegal, arbitrary and contrary to G.O.Ms.No.315 dated 07.10.2010 and consequently declare that the petitioner is entitled to get family pension as per G.O.Ms.No.315 dated 07.10.2010 under category-IIA of widow daughter from the date of death of her mother i.e., with effect from 14.12.2012 along with interest for the delay caused in sanctioning family pension on unlawful grounds and causing mental agony by setting aside the above said rejection order dated 13.04.2016 passed by the 4th respondent.

Heard Sri A.V.V.S. Bhujanga Rao, counsel for the petitioner, and Government Pleader for Services-I.

It has been contended by the petitioner that she is a widow daughter of the deceased Government employee Khaja Gulam Nabi and she is entitled for family pension in terms of G.O.Ms.No.315 dated 07.10.2010, but the respondents have erroneously rejected her case vide proceedings dated 13.04.2016 on the ground that as per the death certificate, she has acquired widow status on 07.04.2001, which

is prior to issuance of G.O (P) No.523 dated 22.06.2004, and that she was not dependent on the deceased Government servant during his life time.

Counsel for the petitioner contended that the State Government has amended the Rules *vide* G.O.Ms.No.315 dated 07.10.2010, wherein under Clause (E) (i) of Category-II it is stated as follows:

“The widowed/divorced daughter, irrespective whether she became widowed/divorced either before or after the retirement of the employee is, eligible for family pension, provided the spouse predeceases the pensioner and sons/daughters referred to in category-I above become ineligible for the Family Pension.”

Counsel for the petitioner further contended that the above amended Rule was not taken into account while rejecting the case of the petitioner, therefore, contended that appropriate orders be passed in the writ petition by setting aside the rejection orders dated 13.04.2016 and the respondents be directed to re-consider the case of the petitioner in view of the amended Rules issued in G.O.Ms.No.315 dated 07.10.2010.

Government Pleader appearing for the respondents had contended that as per G.O (P) No.523 dated 22.06.2004, the policy to include widowed daughter is taken only with prospective effect and since the petitioner has acquired the status of widow prior to issuance of G.O (P) No.523 dated 22.06.2004, the case of the petitioner cannot be considered and, therefore, there are no merits and the writ petition is liable to be dismissed.

This Court, having considered the rival submissions of learned counsel for respective parties, is of the considered view that since the impugned orders dated 13.04.2016 are passed without taking into account the amended Rules issued in G.O.Ms.No.315 dated 07.10.2010, they are liable to be set aside and are accordingly set aside.

Hence, the writ petition is allowed. The respondents are directed to re-consider the case of the petitioner for grant of family pension strictly in terms of amended Rules issued in G.O.Ms.No.315 dated 07.10.2010, and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

10th December, 2019
v v