

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.602 OF 2020

ORDER:

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

This writ petition is filed seeking the following relief :-

“.....writ of mandamus declaring the action of the respondents in passing the rejection order vide Lr.D.A.O.S.A.No.289/A5/2016-17, Dated:01-11-2016 for granting the family pension to the petitioner which is contrary to Rule.50 sub rule 5 category 1 (B)(III) of A.P.Revised pension Rules, 1980 and further the 1st respondent did not pass any orders on the representation, Dated:30-04-2017 for sanction of family pension in respect of the petitioner as per Memo No.110/Pension/2016, Dated:10-10-2016 which is illegal, arbitrary and unconstitutional and consequently declare that the petitioner is entitled to get family pension as per Rule 50 sub rule 5 category 1 (B) (II) of A.P.Revised pension Rules, 1980 from the date of death of his mother by setting aside the above said rejection order Dated:01-11-2016 passed by the 4th respondent”

It has been contended by the petitioner that he is 90% disabled person suffering with neurological problem. The grievance of the petitioner is that his father was a Government employee and he has expired on 02.10.1983 and after the death of his father, his mother was granted family pension. Thereafter, his mother expired on 30.09.2006 and he claimed family pension under Rule 50(5) (III) of A.P.Revised Pension Rules, 1980 (for short 'the Rules') as he is a 90% disabled person. Petitioner further contends that he had submitted a representation on 30.04.2017 to the State Government requesting to sanction family pension

under the Revised Rules. Even before the 1st respondent passed any orders on the said representation, the 4th respondent considered and rejected the case of the petitioner vide proceedings dated 01.11.2016.

Learned counsel for the petitioner contends that the 4th respondent is not the competent authority to consider the case of the petitioner and it is for the 1st respondent who ought to take a decision on the issue whether the petitioner is entitled for family pension or not. Therefore, he contends that the impugned rejection order passed by the 4th respondent is without jurisdiction and without competence, hence, the same is liable to be set aside and further direct the 1st respondent to consider the representation submitted by the petitioner and pass appropriate orders.

Learned Government Pleader appearing for the respondents contends that since the representation submitted by the petitioner is pending before the 1st respondent, the 1st respondent would consider the same and pass appropriate orders in accordance with law.

This Court, having considered the rival submissions of the learned counsel appearing for the respective parties, is of the considered view that this writ petition can be disposed of directing the 1st respondent to consider the representation submitted by the petitioner on 30.09.2006 and pass appropriate orders in accordance with law within a period of eight (08) weeks from the date of receipt of copy of this order.

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: 09-01-2020

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