

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 2382 of 2020

Date : 6.2.2020

Between:

Smt Shaheen Fathima W/o Hyder Zamin Naqvi Late
age about 63 years Occ Widow Pensioner
R/o H No 22-7-480/A/4 Shad manzil Mura Khana Lane
Mandi Mir Alam Hyderabad

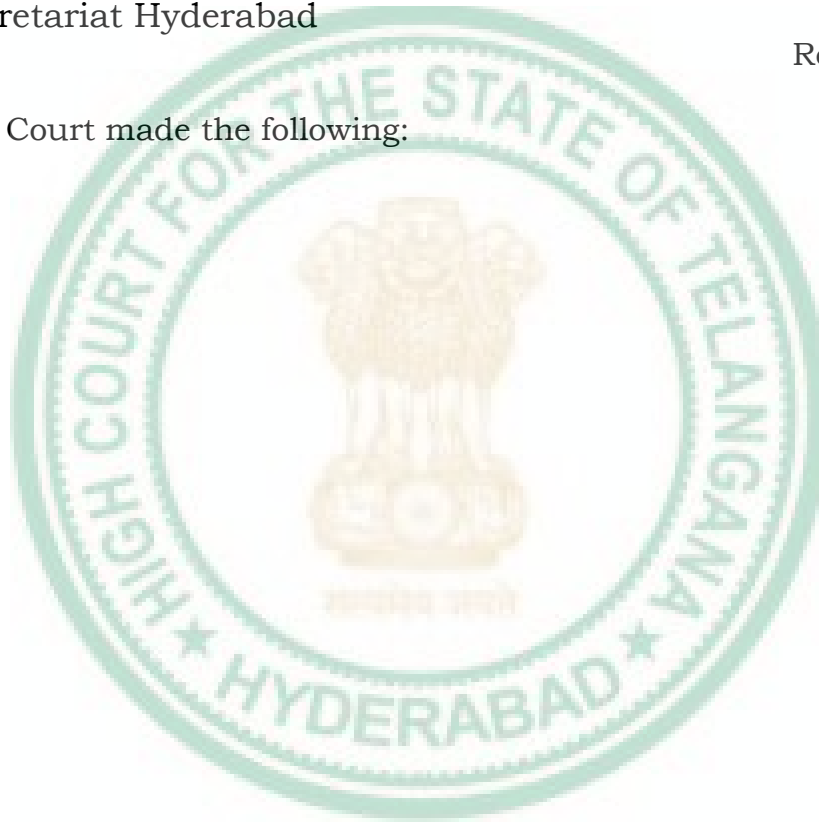
Petitioner

And

The State of Telangana and 4 Others
rep by its Principal Secretary Prohibition and Excise
Secretariat Hyderabad

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner, learned Government Pleader for Prohibition and Excise for respondents 1 and 3 and Sri B Narasimha Sharma, learned counsel for respondents 2 and 4.

2. Petitioner challenges letter written by Commissioner of Prohibition and Excise to the Accountant General responding to the opinion sought from the office of Accountant General. By this letter, Commissioner was forwarding the documents requested by the Accountant General to process the claim of Syed Abbas Zamin Naqvi /5th respondent herein, who claim to be son of late Hyder Zamin Naqvi-Government servant.

3. Learned counsel for petitioner sought to contend various aspects but did not dispute the fact that in F.O.P. 121 of 2009 judgment was rendered on 11.9.2015 wherein the learned Judge of Family Court Hyderabad passed following order:

“In the result, the petition is partly allowed. The petitioner No.1 is hereby declared as the legally wedded wife of late Syed Hyder Zamin Naqvi. Further, the claim of the petitioner No.1 for the consequential relief of direction to the respondent No.2 to release half of the pensionary benefits of late Syed HyderZamin Naqvi is dismissed. The petitioners 2 and 3 being the children of late Syed Hyder Zamin Naqvi through the petitioner No.1 who happens to be his second wife, are entitled to his pensionary benefits in equal measure along with the respondent No.1 who is his first widow. No costs.

4. According to learned counsel, the above judgment has become final and in terms thereof, children / dependants of deceased Government servant are also entitled to claim portion of the family pension. Rule 50 of the Revised Pension Rules provide for apportionment of the family pension to the wife and children of the deceased, subject to compliance of conditions mentioned therein. Learned counsel for petitioner submits that the Accountant General has pointed out certain deficiencies in the application submitted for grant of family pension by

Syed Abbas Zamin Naqvi and unless those objections are complied with family pension cannot be granted.

5. As seen from the material on record, so far no decision is taken by the Accountant General on the proposal submitted by Commissioner of Prohibition and on application made by Syed Abbas Zamin Naqvi. It cannot be expected at this stage that the pension would be granted without verifying his eligibility. Thus, the cause of action arises only if an ineligible person is granted family pension. Further learned counsel for petitioner sought to contend that petitioner has been drawing full family pension all along but from January, 2020 the same was stopped. It is not known in what circumstances family pension was stopped but in view of the declaration given by the Family Court, revised pension payment orders have to be issued by the Accountant General apportioning the family pension to the persons who are entitled to receive the same in terms of Revised Pension Rules, 1980. Therefore, at this stage, no direction can be given. However, to protect the interest of petitioner and other claimants, writ petition is disposed of with a direction to Accountant General to finalise the claim for grant of pension to the dependants of late Hyder Zamim Naqvi-deceased Government servant expeditiously, preferably within a period of four weeks from the date of receipt of copy of this order. No costs. Miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 6-2-2020
TVK

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