

HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.37938 OF 2018

ORDER:

Heard the learned counsel for the petitioner and learned Government Pleader for Services-I appearing for the respondents.

2. Perused the record.

3. The prayer of the petitioner in this writ petition reads as follows:

"To issue a writ order or order more in the nature of writ of mandamus declaring the action of the respondents in not sanctioning family pension being one of the widowers of deceased government servant Sri Md.Mansoor Khan, office subordinate and paying total family pension to the first widower is illegal and breach of Rule 50 (6)(a)(i) of Revised Pension Rules, 1980 and violation of Article 31(1) of the Constitution of India and consequently declare that the petitioner is entitled for 50% of share in family pension being 2nd wife according to Rule 50 (6)(a)(i) of the Revised Pension Rules and continue to pay the family pension so long as she is eligible with all consequential benefits and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

4. The facts not in the dispute are that the 6th respondent, Smt.Mohammad Abeda Bee, first wife of late Md.Mansoor Khan approached the Lok Adalath Bench, Huzurnagar under Section 19 of the District Legal Service Authorities Act, 1987 vide CrI.M.P.No.3064 of 2009 and M.C.No.13 of 2005 against

her husband Sri Md.Mansoor Khan, who retired as the office subordinate, claiming 50% of Family Pension to her. Smt. Abedha Bee and late Md.Mansoor Khan were present before the Lok Adalath and after hearing the case and on perusal of the records, the matter was voluntarily compromised on agreed by the late Md.Mansoor Khan to pay his half of pension and also his retirement benefits to his first wife i.e., Smt.Abedha Bee. Accordingly, the Lok Adalath passed Award dated 07.04.2010 to pay half of the pension and pension benefits to Smt.Abedha Bee, 6th respondent.

5. The said Award dated 07.04.2010 passed by the Lok Adalath Bench at Huzurnagar in Crl.M.P.No.3064 of 2009 in M.C.No.13 of 2005 reads as under:

"With the intervention of the Lok Adalath and elders and after negotiations the respondent agreed to pay his half pension amount every month to the petitioner and also the respondent agreed to pay half amount in his retirement benefits to the petitioner. That the Hon'ble Court may be pleased to direct the respondent drawing officers i.e., Tahsildar, Kethapallu and S.T.O Nakirekal for deducting half of the pension and half of the pensionary benefits out of the full pension and full pensionary benefits and half of the monthly pension of the respondent to the petitioner and same is send to the petitioner bank account in S.B.I Suryapet branch vide A/C No.30969135751."..

6. The petitioner Smt.Khateeja Begum, second wife of late Md.Mansoor Khan also approached the Lok Adalath

Committee, in the Court of the Judicial First Class Magistrate at Nakrekal and filed an Appeal vide M.C.No.37 of 2009. The petitioner, Smt.Khateeja Begum and Md.Mansoor Khan were present before the Court and the matter was compromised before the Court and agreed to pay half of the retirement benefits, and half pension to the petitioner towards the life time maintenance of the petitioner and accordingly, the Award dated 22.12.2009 was passed in the said M.C.

7. The said Award dated 22.12.2009 passed in M.C.No.37 of 2009 under Section 21 of Legal Services Authority Act reads as under:

"1. That the petitioner and the respondent are compromised the matter before the Lok Adalath Committee. Both parties are permitted to compromise the M.C.

2. The respondent agreed to pay his half salary, after retirement half retirement benefits, half pension to the petitioner towards life time maintenance.

3. The petitioner agreed to the same and withdrawing the maintenance case."

8. The counter affidavit filed on behalf of the respondent No.1 and respondent Nos.3 and 4, paras 5, 6 and 7 reads as under:

"5. In addition to the Court orders late Md.Mansoor Khan was also submitted Notarized affidavit during his life time stating that he was drawing service pension vide PPO No.A3/NLG/SP/MRO/006811 and ID No.21332 from Sub-Treasury Office, Nakrekal and compromised in the Courts and Smt.Khateeja

Bee second wife is eligible to get half of pension from the eligible pension, after his death it will be continue, who is looking his health and bread.

6. Further, Smt.Abedha Bee first wife of late Md.Mansoor Khan was also filed affidavit on 30.11.2010 accepting Smt.Khateeja Bee is the second wife of her husband Sri Md.Mansoor Khan which would be true and correct and quite agreed to pay half share of her family pension which would be received after death of her husband Md.Mansoor Khan to Smt.Md.Khateeja Bee R/o.Nakrekal without any kind of objections. The affidavit has attested by advocate notary, Suryapet (copy enclosed).

7. Basing up on the Court orders and affidavit filed by both late Md.Mansoor Khan and first wife Smt.Abedha Bee (3) sets of family pension proposals have been submitted to the District Audit Officer, Nalgonda vide this office Lr.No.A/5295/2009, dated 01.02.2019 for sanction of family pension in favour of petitioner Smt.Khateeja Begum and Smt.Abedha Bee first wife of late Md. Mansoor Khan releasing 50% of family pension to each. The proposals are under consideration at District Audit Officer, Nalgonda."

9. Taking into consideration the averments made in Paras 5, 6 and 7 of the counter affidavit filed on behalf of the respondents 3 and 4, the writ petition is disposed of directing the 4th respondent to consider the family pension proposals submitted to the District Audit Officer, Nalgonda, vide letter No.A/5295/2009, dated 01.02.2019, of the office of the Tahsildar, Kethepally Mandal, Nalgonda District, for sanction of the family pension in favour of the petitioner/Md.Khateeja Bee @ Khatija Begum, second wife of late Md.Mansoor Khan and also to the 6th respondent/Smt. Abedha Bee, first wife of late Md.Mansoor Khan and pass appropriate

orders releasing 50% of family pension to each, in accordance to law, within a period of four weeks from the date of receipt of the copy of the order. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

MRS JUSTICE SUREPALLI NANDA

27.10.2022
KGK/VSU