HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF MAY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE T.MADHAVI DEVI

WRIT PETITION NO: 9445 OF 2022

Between:

Smt. A. Kamala Devi, W/o. Late A.V. Ranga Rao, Aged. 75 years, C/o. M. Jagannath Rao, Plot No.1-15-41, Flat No. G4, Pradeeptha Residency, Venkatraopet Street No. 1, Venkatapuram, Alwal, Secunderabad, Medchel Dist. 500015

...PETITIONER

AND

1. The State of Telangana, Represented by its Principal Secretary, Higher Education Department, Telangana Secretariat, Hyderabad.
2. The Commissioner, Department of Technical Education, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the actions of the Respondents No.2 in not considering the representations dt.19/06/2017 and dt.25/07/2017 of the petitioner seeking the retirement benefits i.e., P.F., Gratuity, pension benefits of her deceased husband as arbitrary, illegal, unjust and in violation of Article 21 of fundamental rights as guaranteed under the Constitution and consequently direct the Respondents No.2 to consider the representations dt.19/06/2017 and dt.25/07/2017 and pass on the retirement benefits i.e., PF., Gratuity, Pension benefits to the petitioner.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No. 2 to consider the detailed representation of the petitioner, dt.19/06/2017 and 25/07/2017 for the pensionary benefits any other benefits that the petitioner is entitled to, pending disposal of the Writ petition in the interest of Justice.

Counsel for the Petitioner: SRI C.VIKRAM CHANDRA

Counsel for the Respondents: GP FOR SERVICES

The Court made the following: ORDER

THE HONOURABLE SMT JUSTICE T.MADHAVI DEVI

WRIT PETITION No.9445 of 2022

ORDER:

This Writ Petition is filed by the petitioner seeking a writ or direction more particularly one in the nature of Writ of Mandamus declaring the action of respondent No.2 in not considering the representations dated 19.06.2017 and 25.07.2017 of the petitioner seeking retirement benefits i.e., P.F., gratuity, pensionary benefits of her deceased husband as illegal, arbitrary and in violation of Article 21 of the fundamental rights as guaranteed under the Constitution of India and consequently to direct respondent No.2 to pass orders on the representation of the petitioner seeking retirement benefits i.e., P.F., gratuity, pensionary benefits to the petitioner and to pass such other order or orders.

2. Brief facts leading to the filing of the present writ petition are that the petitioner's husband Late A.V.Ranga Rao joined as a Lower Division Clerk in the office of Director of Technical Education on 31.07.1965 and was

promoted as a Upper Division Clerk on 16.01.1972. While the petitioner's husband was working as such, he was placed under suspension in the year 1978 on the allegation of theft of typewritten memorandum of marks book on the night of 04.12.1977 and fraudulent use of the same. He was sanctioned subsistence allowance upto 1978. Thereafter, the petitioner's husband was dismissed from service by respondent No.2 *vide* dismissal order dated 12.07.2018 w.r.e.f. 30.09.1991. However, there was mention of the retirement benefits or any other benefits in the dismissal order. The date of birth of the petitioner's husband is 18.07.1943 and the date of superannuation would be 31.07.2001. It is further stated that no orders, permitting him to retire from the government service on attaining the age of superannuation, are found to have been issued in the matter. Therefore, the petitioner seeks pension to her husband, who was under suspension since 16.01.1978.

3. It is also submitted that the suspension of the petitioner's husband was reviewed from time to time and

was extended and in the meantime, a criminal case was also booked against the petitioner's husband and the Criminal Court convicted the accused for the alleged offences *vide* order dated 30.09.1991. It is further submitted that though the respondents have initiated disciplinary proceedings against the petitioner's husband and issued a charge memo, they failed to take any further action against him. Petitioner's husband expired on 19.02.2013 and subsequently, the petitioner herein being the wife of late A.V.Ranga Rao, filed a representation before Lok Adalat, Legal Services Authority on 22.11.2013 requesting for sanction of pensionary benefits from the Department of Technical Education for the total service rendered by the petitioner's husband including the suspension period. Thereafter, the respondents passed the dismissal order dated 12.07.2018 dismissing the petitioner's husband from service w.r.e.f.30.09.1991. Therefore, the present writ petition has been filed seeking a direction to the respondents to consider her representations and grant the retirement benefits to

petitioner's husband including family pension to the petitioner on account of service rendered by her husband.

4. The respondents have filed a counter affidavit admitting that till 2018, the disciplinary proceedings initiated against the petitioner's husband were not concluded. It is stated in the counter affidavit that since the Criminal Court convicted the petitioner's husband for the alleged offences, there was no option but to dismiss the petitioner's husband from service and accordingly, order dated 12.07.2018 has been issued dismissing the petitioner's husband from service w.r.e.f. the date of conviction i.e., 30.09.1991.

5. Having regard to the rival contention and the material available on record, this Court finds that admittedly the petitioner's husband has been placed under suspension on the allegation of theft of typewritten memorandum of marks and misuse of the same and has also been convicted for the said offence by the criminal court *vide* order dated 30.09.1991 and therefore, the respondents passed the dismissal order dated 12.07.2018 w.r.e.f. 30.09.1991.

Learned counsel for the petitioner has placed reliance upon several judgments to the effect that after the death of the employee, the disciplinary proceedings would be abated and therefore, the order of dismissal could not have been passed subsequent to death of the petitioner's husband in the year 2013. The respondents have also not denied the fact that the disciplinary proceedings were not concluded during the lifetime of the employee. However, the petitioner is not challenging the said dismissal order dated 12.07.2018, but she is only seeking pension and other retirement benefits by duly taking into consideration the length of service rendered by her husband including the suspension period. This Court finds that even if the date of dismissal would be taken as 30.09.1991, the petitioner's husband would have put in nearly 26 years of service. However, in view of the order of dismissal, the employee would entail forfeiture of his past service and therefore would not be entitled to any benefits including pension and pensionary benefits, gratuity and also for encashment of leave.

6. This Writ Petition is dismissed. There shall be no order as to costs.

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

SD/- C.PRAVEEN KUMAR
ASSISTANT REGISTRAR

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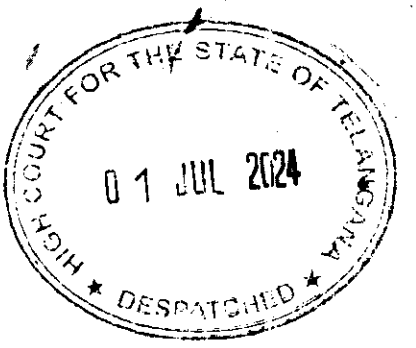
SECTION OFFICER

To,

1. One CC to SRI C.VIKRAM CHANDRA, Advocate [OPUC]
2. Two CCs to GP FOR SERVICES, High Court for the State of Telangana at Hyderabad [OUT]
3. Two CD Copies

HIGH COURT

DATED: 03/05/2024



ORDER

WP.No.9445 of 2022

DISMISSING THE WRIT PETITION,

WITHOUT COSTS

(6) Copies

3/7/24