

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.8341 OF 2023

ORDER:-

The present Writ Petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“... to issue a Writ, orders or direction more particularly one in the nature of “Writ of Mandamus” declaring the inaction of the respondents in sanctioning the Family Pension to the petitioner, who is the blind son of Late Sri.A. Samba Siva Rao, a retired Extension Officer, (Panchayats) in Kaikaluru, Krishna District as per the proposals submitted by the 3rd Respondent vide LR.No.DPO-Est/ 1/2019-SA(PTS-1)-DPOKRSN, Dated 20.01.2019 to the 4th Respondent as illegal, arbitrary and unjust and consequently direct the respondents to sanction the Family Pension to the petitioner forthwith and pass such other and further orders ...”

2. Heard learned counsel for the petitioner, Smt. Swarna Seshu, learned standing counsel for Respondent No.4 and learned Government Pleader for Respondent Nos.1 to 3.

3. The grievances of the petitioner herein is that the inaction on the part of the respondents in sanctioning the Family Pension to the family member of the deceased Employee / Pensioner. Petitioner is son of deceased employee i.e. Late Sri A. Samba Siva Rao who was a retired Extension Officer (Panchayats) in the year 1976. Therefore, the father of the petitioner granted Family Pension till his death i.e.01.12.1988.

4. The petitioner herein aged about 76 years and suffering from permanent disability of Visual impairment i.e. blindness by birth, he is entitled for Family Pension as per Rule 50 (5) of Revised Pension Rules, 1980. Accordingly, he made application for sanctioning of the Family Pension after death of her mother dated 17.06.2017. Pursuant to the representation of the petitioner the Competent Authority i.e. Respondent No.3 addressed a letter to the Respondent No.4 dated 03.03.2020 specifically stating that the petitioner is entitled for Family Pension and submitted all the required documents for sanction of the same w.e.f. 18.06.2017.

5. Even after receipt of the proceedings dated 03.03.2020 from the Respondent No.3, the Respondent No.4 kept quiet for nearly ten months and addressed a letter to the Respondent No.3, dated 06.01.2021 requesting for production of entitlement proceedings as well as documents as mentioned at proceedings therein.

6. Learned counsel for the petitioner submits that the petitioner submitted all the required documents as requested by the authorities concerned for sanctioning Family Pension in his favour. But, even though complied by the petitioner as required, even after lapse of nearly six years after death of his mother, but one reason or other the petitioner was not sanctioned family pension, having admitted and confirmed that he is eligible to receive the same. Hence the writ petition.

7. On the other hand, the learned Government Pleader for the Respondents submits that once the disbursing authority i.e. Respondent No.3, sanctioned the family pension in respect of the petitioner and

forwarded the same to the Respondent No.4 for necessary / further action. Therefore, petitioner is entitled for Family pension w.e.f. 18.06.2017, as per the Rule 50 (5) of Revised Pension Rules, 1980.

8. The learned Government Pleader for the Respondents further submits that after letter addressed by the Respondent No.4 dated 06.01.2021, the Respondent No.3 complied the queries and allowed for disbursement as requested by the Respondent No.4. More so, it may not to be verified again and again. In view of the entitlement of the petitioner, the Respondent No.3 and 4 are under obligation to pay the Family Pension as early as possible as per the Revised Pension Rules, 1980.

9. The learned standing counsel for the Respondent No.4 submits that once the authority more particularly respondent No.3 furnished all the documents as requested, pursuant to the letter dated 06.01.2021 addressed by the Respondent No.4. It is the duty of the Respondent No.4 should process the claim of the petitioner.

10. Heard the submissions made by both the counsels, the fact remains is that the entitlement of the family pension by the petitioner is not in dispute. It is an admitted fact that the Respondent No.3 herein, who is the competent authority for sanction the pension in respect of petitioner was already exercised his power and issued proceedings dated 03.03.2020 in respect of petitioners claim. It is also a fact that the Respondent No.4 addressed a letter/proceedings dated 06.01.2021 for submission of counter signed documents by the Respondent No.3. It is also not in dispute that the proceedings are taken place between the authorities concerned years together, but ultimately petitioner was denied the family pension being a

blind or Physically Handicapped since 2017. For the reasons stated above, it is the statutory duty of the Respondent Nos.3 and 4 to sanction the family pension to the petitioner herein, who is eligible and entitled as per rule 50(5) of A.P.Revised Pension Rules, 1980. Even after receipt of all the documents, but the respondents did not choose to pay till date is nothing but depriving the petitioner from his livelihood as guaranteed under Article 21 and 300 A of the Constitution of India. It is settled principle of law that the Right of Pension is a Right to Property but not a charity. Since six years the Respondent Nos.3 and 4 dragging the matter without there being any valid reason is nothing but “inhumanness” on part of them. This Court is of the considered opinion that the petitioner is entitled for family pension in all respects and respondents are liable to pay the same with immediate effect.

11. In view of the foregoing discussion, this Court *prima facie* convinced and directing the Respondent Nos.3 and 4 herein to complete the entire process and disburse the Family Pension as entitled by the petitioner, within a period of three months from the date of receipt of copy of this order.

12. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

As a sequel thereto, interlocutory applications pending, if any in the writ petition, shall also stand dismissed.

JUSTICE VENKATESWARLU NIMMAGADDA

10th May, 2023
KNR

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