

(2014) 09 AP CK 0053

In the Andhra Pradesh High Court

Case No : Writ Petition No. 32712 of 2013

C. Rukmini Devi

APPELLANT

Vs

The Government of India

RESPONDENT

Date of Decision : 24-09-2014

Acts Referred:

Citation : (2014) 09 AP CK 0053

Hon'ble Judges : P. Naveen Rao, J

Bench : Single Bench

Advocate : Sangam Srinivas Reddy for S. Venkateswara Reddy, Advocate for the Appellant; S. Nanda and G.P, Advocate for the Respondent

Judgement

P. Naveen Rao, J.—Husband of the petitioner Sri Narsi Reddy was freedom fighter and pension was sanctioned to him under "Swatantra Sainik Sanman Pension Scheme, 1980 (for short the scheme) vide proceedings No. 112/119/88-Ff/Hyd.Cell dated 22.4.1991. After death of Sri Narsi Reddy, family pension was granted to his wife Smt. Sumitra Devi in accordance with the scheme. Smt. Sumitra Devi died on 22.5.2012 and after her death, petitioner applied for grant of family pension claiming herself as first wife of late Narsi Reddy. Since there was no response to the representation submitted by the petitioner, this writ petition is instituted praying for direction to respondents to grant family pension under the scheme.

2. Heard learned counsel for petitioner Sri Sangam Srinivas Reddy, learned counsel for first respondent Smt. S. Nanda and learned Government Pleader for Revenue (Telangana) for respondents 2 and 3.

3. Learned counsel for petitioner submits that as per the scheme eligible dependants are entitled for grant of family pension. List of eligible dependants include widow of pensioner. Para 3 of the scheme envisages that not more than one eligible dependant can be granted pension and in the event of availability of more than one dependants, eligibility should be widow, unmarried daughter,

mother and father in the order of preference. Learned counsel also refers to orders issued by Government of India dated 13/17-10-2000 which envisages the order of preference of family members, wherein first preference is assigned to widow/widower. By referring to clause 2(iv) of the said order, learned counsel submits that if there is more than one legally wedded wife, family pension admissible would be shared by them. However, petitioner was under a mistaken impression that only one person is entitled to claim family pension and since pension was already granted to Smt. Sumitra Devi-second wife of her late husband, petitioner has not claimed pension during the life time of Smt. Sumitra Devi. She has submitted an application only after death of Smt. Sumitra Devi. Learned counsel for petitioner submits that in accordance with the scheme referred to above, petitioner is entitled to draw family pension after death of Smt. Sumitra Devi.

4. Smt. S. Nanda, learned counsel appearing for first respondent submits that in the form submitted by late Narsi Reddy, he has only referred to Smt. Sumitra Devi as his wife and entitled to receive family pension and no-where in the records furnished by the pensioner, name of the petitioner is reflected. She further contends that during the life time of Sri Narsi Reddy or after his death when family pension was granted to Smt. Sumitra Devi, petitioner has not raised an objection for grant of family pension nor claimed for equitable distribution of pension with Smt. Sumitra Devi, as envisaged in the scheme. It is only an after-thought invention after the death of the pensioner and Smt. Sumitra Devi and same is not valid.

5. To appreciate the rival contentions it is useful to extract clause 2(iii) and (iv) of order dated 13/17-10-2000. It reads as under:

"2(iii) That in the event of availability of more than one eligible dependent the sequence of eligibility, not more than one at a time, will be in the following order:

1. Widow/widower
2. unmarried daughter
3. mother and father.

Subject to the instructions issued under the Scheme from time to time.

(iv) That in case the deceased freedom fighter had communicated to this Ministry the nomination of more than one legally wedded wives as dependants, the family pension admissible to one dependant widow would be shared by them equally. Such widows would not be treated as separate entities for grant of family pension under the aforesaid scheme."

6. As evident from the record, petitioner never made a claim for grant of family pension immediately after the death of pensioner. She never came into picture for grant of pension either when pensioner was alive or after his death. The declaration given by pensioner did not disclose her name. Thus there is no

illegality in the decision to sanction family pension only to Smt. Sumitra Devi.

7. Reliance placed by learned counsel for petitioner on clause 2(iv) of order dated 13/17-10-2000 is misplaced. The clauses 2(iii) and (iv) have to be read together. According to clause 2(iv) at the time of death of deceased freedom fighter, if he had two wives legally wedded, family pension admissible should be equally shared by both of them. To satisfy this clause, pensioner should give a declaration that he had two legally wedded wives. No such declaration was given by the pensioner. Insofar as clause 2(iii) is concerned, the order of preference indicated therein would apply to widow, unmarried daughter, mother and father respectively in that order and petitioner could have been fitted into the category of widow and share the family pension payable to the widow equally with Smt. Sumitra Devi if a declaration was given to that effect when pensioner submitted application for grant of pension. Once family pension was sanctioned to a widow, clause 2(iii) is satisfied. At that stage petitioner did not protest. After the death of family pensioner, as mentioned in clause 2(iii), it would next go to unmarried daughter if available and then to mother and to father. The above clauses of order dated 13/17-20-2000 are very clear and deal with the situation in this writ petition and there is no ambiguity. Thus, I see no merit in the claim made by the petitioner for grant of family pension. Petitioner is not entitled to claim family pension after death of wife of the pensioner, Smt. Sumitra Devi.

The writ petition fails and accordingly the same is dismissed. No costs. Sequel to the same, miscellaneous petitions, if any stand dismissed.