

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2017

BEFORE

THE HON'BLE MR. JUSTICE A S BOPANNA

WRIT PETITION No.14679/2017 (GM-RES)

BETWEEN:

SMT. GANGAMMA
W/O. LATE CHANNABASAVANNA,
AGED ABOUT 87 YEARS,
OCC: NIL,
R/AT SETTICKERE VILLAGE,
CHIKKANAYAKANALLI TALUKA,
TUMKUR DISTRICT-572 226.

... PETITIONER

(BY SRI. MANJULADEVI R KAMADALLI, ADV.)

AND:

1. THE STATE OF KARNATAKA
REP. BY SECRETARY TO SOCIAL
WELFARE DEPARTMENT,
M.S. BUILDING,
BANGALORE-560 001.
2. THE DEPUTY COMMISSIONER
TUMKUR DISTRICT-572 226.
3. THE TAHSILDAR
CHIKKANAYAKANALLI TALUKA-572 214,
TUMKUR DISTRICT.
4. THE DEPUTY THAHASHILDAR
SHETTIKERE HOBLI,
CHIKKANAYAKANALLI TALUK-572 214,
TUMKUR DISTRICT.
5. DIRECTORATE OF SOCIAL SECURITY
AND PENSIONS
DEPT., OF REVENUE,

GOVERNMENT OF KARNATAKA,
NO.509, 5TH FLOOR,
M.S. BUILDING,
3RD GATE, DR. AMBEDKAR VEEDI,
VIDHANA SOUDHA,
REP. BY SECRETARY
BENGALURU-560 001.

... RESPONDENTS

(BY SRI K P YOGANNA, HCGP.)

THIS PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, WITH A PRAYER TO DIRECT R-3 TO GRANT THE ARREARS OF PENSION TO THE PETITIONER UNDER THE DESTITUTE WIDOW PENSION SCHEME FROM 01.04.2012 TILL 30.12.2016.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner is before this Court seeking issue of mandamus to direct respondent No.3 to grant the arrears of pension to the petitioner under the Destitute Widow Pension Scheme from 01.04.2012 till 30.12.2016.

2. The petitioner's husband Sri Channabasanna is stated to have died in the year 1988. In that light, the petitioner had applied for the Destitute Widow's Pension in the year 1989-90. The request of the petitioner

was considered and the same was granted by respondent No.3-Tahsildar, Chikkanayakanahalli Taluk on 07.03.1990. When this was the position, since through the endorsement dated 19.05.2012, the benefit was discontinued to the petitioner, the petitioner was before this Court in W.P.No.33229/2015. This Court having taken note of the contentions through the order dated 24.08.2016 had directed the respondents to consider the case of the petitioner based on the representation that was permitted to be filed. The respondents having considered the representation, though have granted the destitute widow pension to the petitioner, the same is made with effect from 19.11.2016. The petitioner claiming to be aggrieved that the pension which was being granted earlier was not restored with effect from 01.04.2012 when it was discontinued is before this Court in this petition seeking issue of mandamus.

3. In the light of the above, a perusal of the petition papers would disclose that this Court while taking note of the endorsement dated 19.05.2012 in the earlier writ petition in W.P.No.33229/2015 and disposing of the same on 24.08.2016 had also taken into consideration the correctness or otherwise of the Circular dated 03.02.2012. It was noticed that the same was issued only to update the records and in that circumstance, the respondents could not have held that the petitioner is disentitled to receive the pension. Having observed so, a direction was issued to consider the representation after setting aside the endorsement.

4. In that background, on considering the representation, the respondents were required to restore the same with effect from the date on which it was discontinued. However, through the order at Annexure-F, a wrong conclusion has been reached as if the petitioner has not been granted pension earlier and

has granted the same from 19.11.2016. Such action of the respondents would not be justified.

5. Learned Government Advocate apart from seeking to justify the action of the respondents would also contend that the petitioner has not filed the representation to make a demand and as such the mandamus as sought would not be appropriate.

6. Having taken note of the said contention, I am of the opinion that in the instant case, such demand before approaching this Court for seeking issue of mandamus was not necessary. This is for the reason that as already noticed, this Court in the earlier writ petition on having taken note of the right of the petitioner as claimed for the pension had in that light permitted the representation to be filed and a consideration to be made. In the process of consideration of the representation, when it is seen that the respondents have committed an

error that by itself is sufficient for this Court to set aside the action and issue a mandamus to restore the pension.

7. In that light, the respondents are directed to restore the pension with effect from 01.04.2012 upto the date on which through Annexure-F it has been granted and also continue to pay the pension in the manner as ordered henceforth also. The arrears of pension from 01.04.2012 to 01.12.2016 shall be calculated and paid to the petitioner as expeditiously as possible, but not later than two months from the date on which a copy of this order is furnished.

The petition is accordingly disposed of.

**Sd/-
JUDGE**

hrp/bms