

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

**FRIDAY, THE TWENTY NINTH DAY OF NOVEMBER  
TWO THOUSAND AND TWENTY FOUR**

**PRESENT**

**THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

**WRIT PETITION NO: 37994 OF 2017**

**Between:**

1. SMT. Bismilla Bee (Died as Per LRs), W/o: Late Mohammed Ali, aged about 87 years, House wife, R/o H.No. 2-09-110, Mukurampura, Karimnagar, Karimnagar District.
2. Md. Amjad Saleem, S/o. Late Mohammed Ali, Aged about 62 years, R/o. H.No.2-9-110, Mukurampura, Karimnagar, Karimnagar District.

**(As per Court Order dated 20-09-2024 vide I.A.No.1 of 2024 in WP No.37994 of 2017.)**

**...PETITIONERS**

**AND**

1. The State of Telangana, represented by its Principal Secretary, Home (Police) Department, Secretariat, Hyderabad.
2. The Commissioner of Police, Karimnagar, Karimnagar District.
3. The Director, Directorate of State Audit, Telangana, Hyderabad.
4. The District Audit Officer, State Audit, Karimnagar, Karimnagar District.
5. The Director of Treasuries and Accounts, Telangana, Hyderabad.
6. The Deputy Director, District Treasury Office, Karimnagar, Karimnagar District.

**...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 particularly one in the nature of Writ of Mandamus declaring that the action of the Respondents in not paying petitioner Family Pension from January, 2017 onwards and also not paying her arrears of Family Pension with effect from 13.12.2008 to November, 2016 is illegal and arbitrary and consequently directing the Respondents to pay petitioner Family

Pension with effect from January, 2017 and also the arrears of Family Pension upto November, 2016 from 13.12.2008, and continue to pay her Family Pension every month without insisting upon getting Succession Certificate.

**I.A. NO: 1 OF 2017(WPMP. NO: 47193 OF 2017)**

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 Respondents to immediately release Family Pension to petitioner pending disposal of the Writ Petition.

**Counsel for the Petitioners: SRI M. SRIKANTH**

**Counsel for the Respondents: MS. ARCHANA REPRESENTING FOR  
SRI K. RAMAMOHAN GP FOR SERVICES I**

**Counsel for the Respondent Nos.3 to 6: GP FOR FINANCE & PLANNING**

**Counsel for the Respondent No.2:MS. G. NIKITA, REPRESENTING  
SRI R. VINOD REDDY,**

**The Court made the following: ORDER**

HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

WRIT PETITION NO.37994 OF 2017

ORDER:

Writ petition is filed to declare the action of the respondents in not paying family pension to the petitioner from January, 2017 onwards and also not paying the arrears of family pension w.e.f. 13.12.2008 to November, 2016, as illegal, arbitrary and continue to pay the family pension without insisting upon getting succession certificate.

2. Heard Ms. Archana learned counsel representing Sri K.Ramamohan, learned Government Pleader for Services-I appearing for respondent no.1 and Ms. G.Nikita, learned counsel representing Sri R.Vinod Reddy, learned counsel for respondent No.2.

3. The facts of the case are that late Mohammed Ali (deceased employee) had worked as Police Constable under the control of 2<sup>nd</sup> respondent and retired from service on 28.02.1983 on attaining the age of superannuation and while receiving service pension, he expired on 12.12.2008. It is averred that Smt.

Bismilla Bee got married with the deceased employee on 02.05.1958 and their marriage was recorded in the marriage record bearing No.9058/197, dated 02.05.1958 by Qazaat Sarkar Elgandal, Karimngar; that thereafter the deceased employee married another woman viz., Jaibunnisa Begum. The deceased employee nominated the name of Jaibunnisa Begum for receiving family pension as per pension rules.

4. It is averred that said Jaibunnisa Begum pre-deceased the employee on 17.08.2004. After death of deceased employee on 12.12.2008, his first wife Smt. Bismilla Bee made a representation along with required certificates seeking payment of family pension and family pension was sanctioned on 15.10.2016 w.e.f. 13.12.2008 and she was paid an amount of Rs.11,521.00 towards family pension for the month of December, 2016, but was not paid any arrears of family pension from 13.12.2008 to November, 2016. It is averred that she was not being paid her family pension from January, 2017 onwards.

5. It is averred that later, an objection has been raised by the District Treasury stating that since the nomination figures second

wife i.e., Jaibunnisa Begum, the pension papers submitted by Smt. Bismilla Bee were returned to the District Audit Officer, Karimnagar under intimation to her on 07.06.2017. Thereupon, the District Audit Officer *vide* his letter dated 12.09.2017 requested the 2<sup>nd</sup> respondent to quote the authority under which the family pension may be sanctioned to her and she was issued with Memo dated 18.10.2017 by the 2<sup>nd</sup> respondent directing her to get Succession Certificate from the competent court. Aggrieved by the action of the respondents, Bismilla Bee filed the present writ petition.

6. During the pendency of the writ petition, Smt. Bismilla Bee expired on 01.09.2021 and the 2<sup>nd</sup> petitioner was brought on record as legal representative *vide* order dated 20.09.2024.

7. Learned counsel for the petitioner had contended that late Bismilla Bee was entitled to the family pension since she is the first wife of the deceased employee and the second wife of the deceased employee has already expired during the life time of the deceased employee, though her name was nominated for family pension. It is further contended that as per the rules, the

surviving wife is entitled to receive family pension and therefore, the question of nomination does not subsist now; that after verifying the family members certificate produced by late Smt. Bismilla Bee, the competent authorities have scrutinized the family pension papers and sanctioned the family pension in her favour; that when once family pension was sanctioned, the question of producing the succession certificate from the competent court does not arise and finally, prayed to allow the writ petition by setting aside the Memo dated 18.10.2017.

8. *Per contra*, learned Government Pleader for respondents had contended that the name of Smt. Jaibunnisa Begum was nominated for receiving family pension by the deceased employee as per Rule 49(i) of Revised Pension Rules, 1980 and therefore, Smt. Bismilla Bee is not entitled for family pension; that the District Audit Officer, State Audit, Karimnagar has verified the service register and pension proposals and found that the name of Smt. Bismilla Bee was not mentioned as first wife of the deceased employee anywhere in the list of family members in service register and therefore, the competent authority was

justified in calling for succession certificate from the competent court to claim the family pension. Learned Government Pleader fairly submitted that if the succession certificate is produced from the competent court, the claim of the family pension will be processed as per the rules.

9. Perusal of record would disclose that Smt. Bismilla Bee was claiming that she was the first wife and Smt. Jaibunnis Begum was the 2<sup>nd</sup> wife of the deceased employee; that the deceased employee nominated the name of the 2<sup>nd</sup> wife for receiving family pension; that since the 2<sup>nd</sup> wife of the deceased employee expired before his death, the family pension proposals submitted by Smt. Bismilla Bee were forwarded to the District Audit Officer, State Audit, Karimnagar by the Superintendent of Police, Karimnagar *vide* his letter dated 05.10.2016 to authorize the family pension to the family pension beneficiary Smt. Bismilla Bee and accordingly, family pension was sanctioned to her. Later, on verification of the pension papers, the 4<sup>th</sup> respondent sought clarification from the 2<sup>nd</sup> respondent regarding the genuinity of sanction of family pension to Smt. Bismilla Bee since the deceased employee has not

mentioned her name anywhere in the list of family members in service register or pension proposals as his first wife.

10. In response to the letter dated 12.09.2017 of the 4<sup>th</sup> respondent, the 2<sup>nd</sup> respondent *vide* his Memo dated 18.10.2017 directing Smt. Bismilla Bee to obtain Succession Certificate from the competent court of law to claim the family pension. However, without obtaining the succession certificate from the competent court, Smt. Bismilla Bee approached this Court by filing the present writ petition. Further, 2<sup>nd</sup> wife of late Mohammed Ali pre-deceased him and Sri Mohammed Ali expired about four years after demise of his 2<sup>nd</sup> wife, however, he did not choose to nominate the name of Smt. Bismilla Bee, during his life time.

11. Learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Division Bench of High Court of A.P., in **Gaddam Ruth Victoria v. State of Andhra Pradesh and others**<sup>1</sup>. In the said case, the Division Bench following the judgments of the Hon'ble Apex Court in *Vidhyadhari v. Sukharana Bai*<sup>2</sup> and

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<sup>1</sup> 2023 SCC Online AP 1690

<sup>2</sup> (2008) 2 SCC 238



*Tulsa Devi Nirola v. Radha Nirola*<sup>3</sup> held that nominee shall be the sole beneficiary and if the nomination is in favour of the second wife, she would be entitled to the family pension and not merely for the purpose of receipt of family pension. In the said case, there was a claim for pension by both the 1<sup>st</sup> and 2<sup>nd</sup> wives and the Hon'ble Division Bench held that 2<sup>nd</sup> wife is entitled to receive pension since her name was recorded as nominee in the service records. However, in the present case, the name of the 2<sup>nd</sup> wife is entered as nominee in the service records of the deceased employee and admittedly, Smt. Bismilla Bee, who claimed to be 1<sup>st</sup> wife of the deceased employee and was claiming pension of the deceased employee, is not entered as nominee in the service records. Therefore, the facts in **Gaddam Ruth Victoria** (supra) are completely different and, therefore, same has no application to the facts of the present case. Further, the facts in **Pabitra Mohan Pradhan and another v. Damayanti Pradhan**<sup>4</sup>, are also similar to that of the facts in **Gaddam Ruth Victoria** (supra) and therefore, same is also not applicable to the facts of the present case.

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<sup>3</sup> 2020 SCC Online SC 283

<sup>4</sup> AIR 2003 Orissa 1

12. From the above discussion, facts and circumstances of the case, this Court is of the considered view that 2<sup>nd</sup> respondent was justified in directing the petitioner No.1 to obtain the Succession Certificate from the competent Court of law to claim the family pension.

13. Therefore, without going into merits, the Writ Petition is disposed of granting liberty to the petitioner No.2 to obtain Succession Certificate from the competent Civil Court to claim family pension of the deceased employee and upon such certificate being furnished by the petitioner No.2, the respondents shall consider the same and pass appropriate orders in accordance with the Rules. There shall be no order as to costs.

Pending Miscellaneous Applications, if any pending, shall also stand closed.

**SD/-L. LAKSHMI BABU  
ASSISTANT REGISTRAR**

//TRUE COPY//

**SECTION OFFICER**

To,

1. The Principal Secretary, Home (Police) Department, Secretariat, The State of Telangana, Hyderabad.
2. The Commissioner of Police, Karimnagar, Karimnagar District.
3. The Director, Directorate of State Audit, Telangana, Hyderabad.
4. The District Audit Officer, State Audit, Karimnagar, Karimnagar District.
5. The Director of Treasuries and Accounts, Telangana, Hyderabad.
6. The Deputy Director, District Treasury Office, Karimnagar, Karimnagar District.
7. One CC to Sri M. Srikanth, Advocate [OPUC]
8. Two CCs to The GP for Services-I, High Court for the State of Telangana, at Hyderabad [OPUC]
9. Two CCs to GP for Finance & Planning, High Court for the State of Telangana, at Hyderabad [OUT]
10. One CC to Sri R. Vinod Reddy, Advocate [OPUC]
11. Two CD Copies

TJ  
BS

HIGH COURT

DATED:29/11/2024



ORDER

WP.No.37994 of 2017

DISPOSING OF THE WRIT PETITION  
WITHOUT COSTS

(15)

bp  
20/12/24.