

APHC010666002018



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3396]

**FRIDAY, THE NINTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

WRIT PETITION NO: 32150/2018

Between:

Darana Harry

...PETITIONER

AND

State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.ARRABOLU SAI NAVEEN

Counsel for the Respondent(S):

1.K SWARNA SESHU(SC FOR AG)

2.K SWARNA SESHU

The Court made the following ORAL ORDER:

This Writ Petition is filed under Article 226 of Constitution of India with the following prayer for:

“...to issue an order or direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondent authorities in not paying the death benefits of Smt D Teresamma who died in harness as 2nd Grade Teacher in St. Anthony Elementary School, Maharanipecta, Visakhapatnam in favour of the petitioner in spite of the legal heir certificate obtained in SOP No 583 of 1993 on the file of the Court of the II Additional District Judge Visakhapatnam as arbitrary, illegal, null and void and consequently direct the respondent authorities to pay the death benefits of Smt. D.Teresamma in favor of the petitioner forthwith and to pass...”

2. Heard Sri A.Sai Naveen, learned Counsel for the petitioner, Sri K. Swarna Seshu, learned Standing Counsel for the respondents No.5 and the learned Assistant Government Pleader for School Education.

3. Learned counsel for the petitioner would submit that the petitioner herein is the brother of Smt.D.Teressamma, who worked as a Teacher in the School of the respondent No.2. She died in harness while working as Secondary Grade Teacher in the School of the respondent No.2. Learned counsel would further submit that the petitioner being her only brother despite filing legal heir certificate obtained in SOP.No. 583 of 1993 on the file of II Additional District Court, Visakhapatnam dated 09.03.1998 wherein the petitioner was declared as legal heir. The respondent-authorities are directed to pay the death benefits of Smt. D.Teressamma. Learned counsel for the petitioner would further submit that Smt.D.Teressamma is married to Sri M.Satyanandam in the year 1979. The couple never blessed with children during the wedlock. While so, the deceased died on 30.08.1988. Learned counsel would further submit that aggrieved by the orders in SOP.No.583 of 1993, the husband of the deceased and his mother Smt. Varahamma preferred an appeal before the Co-ordinate Bench of this Court in A.S.No. 869 of 1998. It was dismissed on 17.01.2000. It has become final. No further appeal preferred. Learned counsel would further submit that the petitioner also filed O.S.No.327 of 2003 on the file of III Additional Junior Civil Judge, Visakhapatnam for mandatory injunction seeking a direction to the

respondent-authorities for reconstruction of service register of Smt.D.Teressamma who is his sister. That was decreed on 31.05.2010 by duly directing the School to reconstruct the service register of the deceased. Learned counsel would further submit that despite the directions in the decree, the respondents did not choose to comply the same. Then, he filed E.P.No.123 of 2011 which was allowed on 31.03.2015, even thereafter, he got issued a registered legal notice to the respondent Nos. 2 to 4 dated 24.07.2017. Learned counsel would further submit that inspite of his best efforts for execution of decree passed in his favour for reconstruction of service register and also having decreed that he is the legal heir of his sister Smt.D.Teressamma, he could not receive any death benefits of his sister. Learned counsel finally submits that it is perpetual injustice to the departed soul.

4. Learned Assistant Government Pleader for School Education would submit that admittedly, the sister of the petitioner Smt.D.Teressamma died on 30.08.1988 during service. Her late father Mr.D.Alexander has been nominated to receive terminal benefits and other amounts. Learned Assistant Government Pleader would further submit that the petitioner worked as Superintendent in Andhra University, Visakhapatnam and retired. He is not eligible to receive the family pension as per Rule 50 clause-V of Andhra Pradesh Revised Pension Rules, 1980. As per the same, the spouse up to the death, son until he attains 25 years, to the unmarried daughter until her marriage, they are entitled under Category-I for Family pension. If there are no

family members falling under Category-I, the parents of the deceased Government Servant are eligible up to the day of their death. Learned Assistant Government Pleader would further submit that the petitioner has preferred SOP.No.583 of 1993 to declare that he is the legal heir of his father Mr.D.Alexander being his son, but it does not relate to any claim on his late sister Smt.D.Teressamma. Learned Assistant Government Pleader would further submit that the respondent No.2 issued a reply dated 14.05.2018 to the effect that there is no leave encashment is pending to the deceased Smt.D.Teressamma. SAPP scales of 8 years, 16 years, 24 years are also not pending and no PRC arrears are pending and salary was paid to her from time to time to her account and no dues are pending. Learned Assistant Government Pleader would further submit that coming to the claim of funeral expenses, it is not available to the aided teachers prior to the issuance of G.O.Ms.No. 38 dated 28.05.2013. But the individual died in the year 1988. So the question of giving any amount for funeral expenses does not arise. Learned Assistant Government Pleader finally submits that the petition does not have any merit and prays for dismissal of the petition.

5. Learned Standing counsel for the respondent No.5 would submit that the Court may pass appropriate orders and it is the duty of the respondent Nos. 2 to 4 to process the claim of the petitioner if he is eligible and then, the respondent No.5 can attend such claim to further process to enable the petitioner to receive their amounts.

6. Considering the submissions made and a fair look at the material placed on record, there is no dispute about the fact that the petitioner is the own brother of the deceased Smt.D.Teressamma. Smt.D.Teressamma died during her service as Secondary Grade Teacher in the School of the respondent No.2 leaving behind her father late D.Alexander, her husband Mr. Satyanandam, ofcourse, the petitioner who is her brother. Admittedly, there is rival claim from the husband of the deceased immediately after her death about her death benefits and service benefits. By that time, the father of the petitioner late D.Alexander died. The petitioner's father passed away on 11.08.1990. As such the petitioner has approached the Court by filing SOP.No. 583 of 1993 claiming the following benefits which are shown in the schedule:

- i) Value of cash certificate No.294290/1140/87 issued to later Darana Thresemma by Federal Bank, Visakhapatnam on 07.08.87 is Rs.30,000/- its maturity value is Rs.40,347/-.
- ii) Savings Bank Account No. 623180 in the name of late Darana Theresamma in Federal Bank, Viskhapatnam Rs. 6,607.80/-.
- iii) S.B.Account No. 23873-00 in Andhra Bank, Maharanipecta Branch, Visakhapatnam. 2. In the name of late Drana Theresamma, Rs.8873-60/-.
- iv) S.B.Account No. T-46 in the name of late Darana Theresamma in the State Bank of India, Maharanipecta Visakhapatnam.2.Rs.17,408-92/-.
- v) Gratuity amount of Rs.30,000/- (thirty thousand)
- vi) Revised Pay Scales Arrears Rs.12,000/-

vii) Pay for the month of August, 1988 Rs.1617-10/-

viii) Provident Fund amount of Rs.10,111-90/-

ix) Group Insurance Scheme Amount of Rs.40,000/-

Total value of items 1 to 9 is Rs.166,966-32.

7. The respondents therein are the husband of the deceased as well as mother in law of the deceased. After contesting, the matter was decided in favour of the petitioner holding that he is the legal heir, he can receive the amounts which are mentioned in the schedule. Being aggrieved by the orders in SOP, since the husband of the deceased died by that time, his mother preferred appeal in A.S.No. 869 of 1998 and it was dismissed. For ready reference the order in the appeal is extracted hereunder:

“ In view of the report received from the Lower Court to the effect that the petitioner failed to establish the will setup by him and as such he cannot be brought on record as the legal representative of the deceased appellant, the appeal does not survive and it is accordingly dismissed as having abated. No costs.”

8. It is also not in dispute that despite of his efforts, the respondent-authorities cannot even move their little finger. The petitioner again forced to file a civil suit in O.S.No.327 of 2003 on the file of III Additional Junior Civil Judge, Visakhapatnam seeking direction for reconstruction of the service register of the deceased, that was decreed in his favour. In the said suit, the respondent No.2 herein was shown as defendant. Even after passing of such decree, the respondent No.2 did not choose to reconstruct the service

register. Then he preferred E.P, that was also allowed. Even after this much of legal battle, the individual cannot get anything relating to the death of his own sister. The contention of the respondents on the point that the petitioner is not eligible to claim family pension has some merit. The petitioner being the brother does not fall under Category-I of A.P. Revised Pension Rules, 1980, cannot claim family pension of the deceased. Coming to the other death benefits claimed by the petitioner, the respondent Nos. 1 to 4 contend that those amounts are already paid. The letter which was addressed to the District Educational Officer, Visakhapatnam from the School Correspondent dated 14.05.2018 would show that basing on the information gathered from their memory, they have decided that the deceased received everything. For ready reference the relevant portion of the said letter dated 14.05.2018 is extracted infra:

“Sub:- Reply for the particulars to the above referred letter, regarding Ref:- Proceedings RC NO. DEO/171/2018-JA(AIDEDPS)-DEO VSP dated 31-03-2018 Through the Deputy Inspector of schools Urban range VSP

We are giving below particulars regarding the points in your letter referred above.

1. Gratuity claims are not sanctioned and not drawn as the claims of her brother D. Harry that he is the legal heir of SMT. D. Theresamma is disputed.
2. Pending amount like GIS, PF were paid to her brother D. Harry.
3. No leave encashment is pending.
4. SAPP scales 8 years, 16 years, 24 years claims are not pending
5. No .PRC is pending as salaries were paid to her by government up to her death as per G.O.s.

6. No pension was paid to her husband as he did not claim it. They had separated themselves due to some disagreement.
7. No funeral charges were paid at the time of her death since there was no provision to pay as the G.O regarding the same were issued later.
8. We are not sure of salary payment of August 1988.
9. As far as we are aware, no amounts except gratuity is to be paid.

This information is gathered from our memory and some informations given by other teachers as her Service register was submitted to the D.E.O's Office which was misplaced at the O/o the Deputy Inspector of Schools Urban range VSP and could not get the exact information. These informations were already communicated to you in our previous letters dated 15-12-2016 and 15-03-2018 respectively. (Which are enclosed here with)"

9. Basing on the information received in the letter referred supra, respondent No.3 filed counter in the present matter affirming everything whatever mentioned in the letter. Be that as it may, the information which is furnished in the letter supra, is not supported by any scrap of paper. There is no basis for the respondent No.2 to furnish such type of information being a Correspondent of Government Aided School which is not tenable. Admittedly, the petitioner was declared as legal heir of the deceased Smt. D.Theresamma to receive her death benefits. Hence, he is entitled on all scores to receive such amounts which are due to his sister. In that view, the petition is allowed directing the respondent Nos. 1, 3, 4 to see that the respondent No.2 shall reconstruct the service register within a period of one month from the date of receipt of copy of this order. If the respondent No.2 failed to reconstruct the

service register and in absence of any proof of the payments as per the claim, the respondents are directed to treat the petitioner's claim as correct and pay the death benefits of Smt.D.Theresamma to the petitioner within a period of two (2) months from the said date without fail. However, the claim of the petitioner regarding the family pension is negative.

10. With these observations, the Writ Petition is allowed. No order as to costs.

Pending applications, if any, shall stand closed.

Dr. VENKATA JYOTHIRMAI PRATAPA, J

Date: 09.05.2025

Note: CC today,

B/o.

UPS

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HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

W.P.No.32150 of 2018

Dated.09.05.2025

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