

APHC010129672018



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

[3207]

THURSDAY, THE NINTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

WRIT PETITION NO: 5762/2018

Between:

1. NEELAPU ALEKYA, NEELAPU ALEKYA WIFE OF LATE TATA REDDY AGED 17 YEARS, BEING MINOR REPRESENTED BY FATHER AND NATURAL GUARDIAN BASAVA NEELAYYA SON OF TAVITAYYA, AGED 47 YEARS, ELECTRICIAN, D NO. 15-12-19, RAMA KRISHNA RAO PET, KAKINADA, EAST GODAVARI DISTRICT EAST GODAVARI

...PETITIONER

AND

1. THE UNION OF INDIA, THE UNION OF INDIA REPRESENTED BY SECRETARY MINISTRY OF DEFENCE, NEW DELHI NEW DELHI
2. SAILOR PENSION AND RECORDS, COMMODORE BUREAU OF SAILORS (CABS) CHEETAH CAMP, MANKURD, MUMBAI
3. THE COMMANDING OFFICER, INS DEGA, C/O FLEET MAIL OFFICE, VISAKHAPATNAM.
4. COMMAND REGIMENTAL SYSTEM OFFICER, INCS COMPLEX, NAVAL BASE. NEAR SCINDIA JUNCTION VISAKHAPATNAM
5. NEELAPU RAMANA, SON OF LATE TATA REDDY, AGED 55 YEARS, EMPLOYEE M MUNICIPAL CORPORATION, RESIDENT OF DOOR NUMBER 15-2- 20, RAMAKRISHNARAO PET, KAKINADA, EAST GODAVARI DISTRICT

...RESPONDENT(S):

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 writ, order or direction especially one in the nature of Writ of Mandamus declaring the action of the 3rd and 4th respondents in neither conducting investigation as per the letter dated 24-1-2018 issued by the 1st respondent nor receiving relevant papers to claim the benefits of late Tata Reddy worked as sailor 220320-B in INS Dega from the petitioner, legally wedded wife of late N.Tata Reddy, is illegal, arbitrary and violative of Art 21 of the Constitution of India and consequently direct the respondents to conduct necessary enquiry with regard to the marital status of late Tata Reddy sailor 220320-B INS Dega and pass

IA NO: 1 OF 2018

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 not release any death benefits of late N.Tata Reddy sailor 220320-B INS Dega died on 29-10-2017 in favour of the 1st respondent pending disposal of the above Writ Petition and pass

Counsel for the Petitioner:

1. T V JAGGI REDDY

Counsel for the Respondent(S):

1. V S R ANJANEYALU

2. DEPUTY SOLICITOR GENERAL OF INDIA

The Court made the following:

THE HONOURABLE SRI JUSTICE BATTU DEVANAND**WRIT PETITION No.5762 of 2018****ORDER: -**

Heard Mr T.V.Jaggi Reddy, learned counsel for the petitioner and Mr Challa Dhanamjaya, learned Additional Solicitor General of India appearing for Respondent Nos.1 to 4. Perused the material on record.

2. The facts emerges for filing of this Writ Petition are as follows:-

a) The petitioner was married with one Tata Reddy son of the 5th respondent on 29.04.2017 at T.T.D Kalyanamandapam, Kakinada. At the time of marriage, the husband of the petitioner i.e., Tata Reddy is working as Sailor in INS Dega, Visakhapatnam. The husband of the petitioner joined the service on 10.02.2009. The marriage was consummated at Kakinada and they lived together as wife and husband till the sudden demise of Tata Reddy in a road accident on 29.10.2017 at Visakhapatnam. Thereafter, the petitioner came to know that at the time of joining, the name of the 5th respondent is mentioned as nominee in the service records. After marriage, unfortunately before the change of nomination, the husband of the petitioner died on 29.10.2017. Police registered a case in Crime No.310 of 2017 under Section 304(A) of IPC. After the death of the husband of the petitioner, the 5th respondent being the nominee of the deceased Tata Reddy made application claiming the survival benefits. The petitioner came to know that the 5th respondent

misrepresented the official respondents that his son died unmarried. Accordingly, Respondents Nos.2 to 4 released survival benefits to the 5th respondent. In fact, the 5th respondent also obtained signatures of the petitioner on some papers. After realization of the part of the death benefits, the 5th respondent, his wife, daughter and son drove away the petitioner from the house. In this connection, the 5th respondent through an employee in Kakinada Municipal Corporation submitted affidavit, duly notarized by an advocate stating that he is dependent upon the deceased. By making such a false affidavit, the 5th respondent realized the death benefits. On coming to know about the fraud played by the 5th respondent, immediately the petitioner got issued notice, dated 17.01.2018 to the 2nd respondent. Another notice, dated 29.01.2018 was also issued. The 2nd respondent sent a letter, dated 24.01.2018 wherein it was mentioned that the 3rd respondent is requested to investigate and in case if Tata Reddy is married necessary papers may be obtained from the petitioner to process family pension claim.

b) The 2nd respondent also addressed a letter, dated 05.02.2018 to the 4th respondent mentioning that the letters addressed by the petitioner were received and they were forwarded to the 4th respondent and further directed to contact 4th respondent. Thereafter, there is no progress in this, since the 4th respondent is not receiving relevant papers from the petitioner to prove her entitlement as wife to get family pension and other monetary benefits he intends to release the benefits in favour of the 5th respondent. Under these circumstances, the petitioner approached this Court against the action of

Respondent Nos.3 and 4 in not conducting investigation as per the letter, dated 24.01.2018 issued by the 2nd respondent and not receiving the relevant papers to claim death benefits of her husband who worked as Sailor in INS Dega, Visakhapatnam being the legally wedded wife of deceased Tata Rao.

3. In the counter affidavit filed by Respondent Nos.1 to 4 it is averred that the petitioner for the 1st time approached the Naval Authorities vide letter, dated 21.12.2017 claiming that she is the legally wedded wife of the late sailor. Thereafter, the Naval Authorities stopped all the payment/death benefits. The petitioner was directed to submit the proof of marriage as per law vide INS Dega letter No.209/551/1, dated 07.03.2018. The petitioner vide letter, dated 08.03.2018 had submitted the documents i.e., FIR, Panchanama, Marriage Card along with photographs, notarized affidavit, death certificate and copy of the bank slip. It is further averred in the counter affidavit that on examination of the said documents, it was apparent that the petitioner submitted a Notarized affidavit/attested by a Notary. The said affidavit being a notarized one and not being sworn before a 1st Class Magistrate it is considered as void. Again, the Dega/Unit approached the petitioner to submit the documents with reference to the solemnization of the marriage vide letter, dated 12.03.2018. The petitioner vide letter, dated 14.03.2018 again submitted the notarized affidavit, marriage card along with photographs, FIR, Panchanama, Death Certificate, Copy of the Bank Slip.

It is further averred in the counter affidavit that as per SDs/NOK proforma the Sailor was unmarried and his father's name i.e., Sri N.Ramana

was entered into service register and as such, they have disbursed the death/survival benefits to the nominee. It is stated that the Navy Department are duty bound to pay the death benefits to the legal next of kin of the deceased.

4. Learned counsel for the petitioner would submit that the petitioner lost her husband in a road accident on 29.10.2017 only after Six(6) months of their marriage at the age of 17 ½ years. The 5th respondent, who is the father in law of the petitioner, being the nominee of the petitioners' husband in the service records was paid part of the death/survival benefits after the sudden demise of the husband of the petitioner. As the husband of the petitioner died within Six(6) months after the marriage, the name of the petitioner was not included in the service register as a nominee. The learned counsel further contends that considering the pathetic condition of the petitioner, the respondent authorities INS Dega ought to have considered the case of the petitioner to grant family pension without insisting for certain documents.

5. On the other hand, Mr Challa Dhanamjaya, learned Additional Solicitor General of India basing on the averments made in the counter affidavit filed by the respondents and recent instructions received from the respondents and also with the assistance of the officers present before the Court on behalf of Respondent Nos.3 and 4 would submit that as the 5th respondent was nominee of the deceased sailor the Naval Department paid the death/survival benefits to him. Now the petitioner can claim only family pension as being eligible as per rules. The learned Additional Solicitor General

of India further submits that considering the condition of the petitioner who lost her husband at tender age within Six (6) months after her marriage, the Naval Department officials has considered the claim of the petitioner sympathetically as a special case and sent proposal to the competent authority in view of the fact that there is no dispute about the marriage of the petitioner with the deceased Sailor Tata Reddy. Now the competent authority has to pass appropriate orders on the proposal sent by Respondent Nos.3 and 4.

6. Considering the facts and circumstances of the case and on careful examination of the material available on record, there is no dispute with regard to admitted facts of the case. The petitioner is a legally wedded wife of the deceased Tata Reddy who worked as Sailor in INS Dega from 10.02.2009. It is also an admitted that unfortunately the said Tata Rao died in an road accident on 29.10.2017 within six (6) months of their marriage and admittedly at that time, the age of the petitioner was only 17 ½ years. It is also an admitted fact that the 5th respondent was not only father in law of the petitioner, but also her maternal uncle. Being nominee of his son Tata Reddy, the 5th respondent claimed the survival benefits and the Naval Department officials as per the procedure paid an amount of Rs.48,00,000/- to the 5th respondent. If the contention of the petitioner is true that she is thrown from the matrimonial home after the death of her husband and after receiving Rs.48,00,000/- from the Naval Department, such action and attitude of Respondent No.5 i.e., the father in law of the petitioner and their family members has to be treated as inhuman. Instead of taking care of the petitioner

who lost her husband after Six(6) months from the date of marriage, throwing her from the matrimonial home is inhuman. However, considering the claim of the petitioner as a special case, Respondent Nos.3 and 4 send proposals to the competent authority i.e., Principal Controller of Defense Accounts(Pensions), Allahabad for passing appropriate orders.

7. Learned counsel for the petitioner has drawn the attention of this Court to the Family Member Certificate issued by the Government of Andhra Pradesh Revenue Department, dated 07.09.2019 and the Certificate, dated 29.10.2023 issued by the Tahsildar, Kakinada Urban. On careful perusal of these certificates, it supports the claim made by the petitioner that she is the legally wedded wife of the deceased Sailor Tata Reddy. Admittedly, these certificates were already produced before Respondent Nos.3 and 4.

8. As there is no dispute with regard to marital status of the petitioner, in the considered opinion of this Court the petitioner is entitled for the family pension of her husband from Respondent Nos.2 and 3.

9. In the light of the submissions made by the learned Additional Solicitor General of India on instructions that Respondent Nos.3 and 4 has sent proposal to the competent authority i.e., Principal Controller of Defense Accounts(Pensions), Allahabad, this Writ Petition is disposed of directing the Principal Controller of Defense Accounts(Pensions), Allahabad to consider the proposals sent by the respondent officials to grant family pension to the petitioner without insisting for marriage certificate issued by 1st class

Magistrate as a Special case within a period of three (3) months from today to meet the interest of justice and to do substantial justice to the petitioner.

10. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE BATTU DEVANAND

Date : 09.04.2026

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THE HONOURABLE SRI JUSTICE BATTU DEVANAND

W.P.No.5762 of 2018

Date: 09.04.2026

PGR