

**\*HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

**+WRIT PETITION No.560 of 2021**

**Between:**

#Vilamandiparthi Vagdevi,

**...PETITIONER**

**AND**

\$The State Of Andhra Pradesh and Others

**...RESPONDENT(S)**

JUDGMENT PRONOUNCED ON **28.03.2025**

**THE HON'BLE DR.JUSTICE K. MANMADHA RAO**

1. Whether Reporters of Local newspapers  
may be allowed to see the Judgments? - Yes -
2. Whether the copies of judgment may be marked to Law  
Reporters/Journals - Yes -
3. Whether Their Ladyship/Lordship wish to see the fair  
copy of the Judgment? - Yes -

---

**DR.JUSTICE K. MANMADHA RAO**

\* THE HON'BLE DR.JUSTICE K. MANMADHA RAO

+WRIT PETITION No.560 of 2021

% 28.03.2025

# **Between:**

#Vilamandiparthi Vagdevi,

...PETITIONER

**AND**

\$The State Of Andhra Pradesh and Others

...RESPONDENT(S)

! **Counsel for the Petitioner :** Sri S. Sridhar

! **Counsel for Respondents:** GP for Services-II  
GP for Services-IV  
Sri G.Sai Narayana Rao

<Gist :

>Head Note:

? Cases referred:

APHC010008002021



IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI [3310]  
(Special Original Jurisdiction)

FRIDAY ,THE TWENTY EIGHTH DAY OF MARCH  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE DR JUSTICE K MANMADHA RAO**

**WRIT PETITION NO: 560/2021**

**Between:**

Vilamandiparthi Vagdevi,

**...PETITIONER**

**AND**

The State Of Andhra Pradesh and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner:**

1.S SRIDHAR

**Counsel for the Respondent(S):**

1.GP FOR SERVICES IV

2.G SAI NARAYANA RAO

3.GP FOR SERVICES II

**The Court made the following:**

**ORDER:**

This writ petition is filed under Article 226 of the Constitution of India for the following relief:

*“.....to issue a Writ Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent Nos 3 and 4 in not releasing family pension to the petitioner as arbitrary illegal contrary to the CCS Pension Rules 1972 and in violation of*

*Article 21 of the Constitution of India and consequently direct the respondent Nos 3 and 4 herein to forthwith release family pension amount to the petitioner and pass.....”*

2. Brief facts of the case are that the writ petitioner was married to the deceased husband on 14.05.1987 as per Hindu rites and customs and out of the wedlock they borne two daughters and one son with date of births 29.08.1991, 27.08.1993 and 06.08.1995 respectively. The deceased husband worked as work inspector in Panchayat Raj Department in PRI division of Kothavalasa. . After the death of deceased husband on 28.08.2014, Petitioner sent proposals dt.12.09.2014 to Respondents 3 and Respondent 4 for the family pension and other death benefits and also for providing appointment to her son under compassionate grounds. Thereafter, Petitioner was informed by Respondent 4 vide Memo dt.21.12.2014 to get legal heir certificate from Tahsildar Jami. Despite complaints made to the 2<sup>nd</sup> respondent-Revenue Divisional Officer, Tahsildar failed to issue a legal heir certificate. Except the funeral charges, Petitioner was not sanctioned any amounts by the Respondents. Thereafter when Petitioner approached the Respondents for release of family pension and other death benefits, Respondents cited a representation received by V. Krishnamma, who is the 5<sup>th</sup> respondent herein asserting as legally wedded wife of Petitioner’s deceased husband. The Petitioner stated that the 5<sup>th</sup> respondent was having an illicit relationship with the deceased husband of the Petitioner from which she tried to take advantage by entering her name in the Service Records of the deceased husband of the Petitioner. Having been denied by the Petitioner’s deceased

husband, the 5<sup>th</sup> Respondent has filed number of cases against the deceased husband of the Petitioner including maintenance. It is further stated that the 5<sup>th</sup> Respondent has filed S.O.P.No.6/2016 before the Hon'ble Senior Civil Judge at Vizianagaram against the Petitioner seeking succession certificate in her favour to receive Gratuity, Group Insurance, contributory provident fund and leave salary of the deceased husband of the Petitioner excluding family pension and contends that it does not preclude Petitioner from receiving the family pension of the deceased husband by Respondents No. 3 and 4.

3. The 5<sup>th</sup> Respondent has filed counter affidavit stating that she is the legally wedded first wife of the deceased husband, with two children. After the birth of her first son, deceased husband developed an illicit relationship with the Petitioner and even had children with her. The 5<sup>th</sup> Respondent has stated that during the lifetime of deceased, he executed a registered Will Deed dated 21.09.1993 bearing Doc. No.53/1993 wherein he categorically mentioned that she is his first wife and the petitioner herein is his 2<sup>nd</sup> wife. Thereafter when the deceased husband started neglecting her son, she filed case for maintenance in M.C.No.8/1998 on the file of the Judicial Magistrate of 1st Class, S.Kota, and the same was allowed and the above mentioned Will Deed dt.21.09.1993 was marked as Ex.P1. The M.C.No.8/1998 was allowed vide orders dt.20.12.1999 and the Hon'ble Court also held that the 5<sup>th</sup> Respondent as the first wife of the deceased husband and that the writ petitioner herein is the second wife. However, the revision petition was later filed by the deceased husband in CRL.R.P.No.12/1999 on the file of the Addl District & Sessions

Judge, Vizianagaram was dismissed vide Orders dt. 23.09.2000. Thereafter, the 5<sup>th</sup> Respondent filed an application for enhancement of the maintenance amount vide MP.No.3251/2005 in MC No.8/98 and the same was allowed by the Hon'ble Judicial Magistrate of 1st Class. S.Kota, and thereafter in the year 2011, the 5<sup>th</sup> Respondent once again filed an application for enhancement of compensation vide CRL.M.P.No.952/2011 in MC.No.8/98 and the same was settled before the Lok Adalat with the deceased husband agreeing to pay an enhanced amount of maintenance. It is further stated that after the death of the deceased husband, 5<sup>th</sup> Respondent and her son filed S.O.P.No. 6 of 2016 on the file of the Senior Civil Judge Court, Vizianagaram, for grant of Succession Certificate in their favor for the "Death Benefits" of the deceased husband that includes family pension and for the compassionate appointment for her son. The said S.O.P.No.6 of 2016 is at the stage of trial and is coming up for the cross examination of PW1. It is further stated by the 5<sup>th</sup> Respondent that the filing of the instant writ petition by the Petitioner is nothing but an abuse of the process of law in an attempt to pre-empt the judgment/order of the competent civil court in S.O.P.No. 6 of 2016 and therefore the writ petition is not maintainable and is liable to be dismissed with costs.

4. Heard Sri S. Sridhar, learned counsel appearing for the petitioner and learned Government leader for Services-II; learned Government Pleader for Services-IV and Sri Sai Narayana Rao, learned counsel appearing for the 5<sup>th</sup> respondent.

5. On hearing, learned counsel for the petitioner while reiterating the contents made in the petition, submits that, even as per sec. 11 of Hindu Marriage Act, any marriage shall be treated as null and void if the party to the marriage has a living spouse. Further as per the pension rules and department circulars, a second widow will not have any claim for family pension as second marriage is null and void and she is not holding the status of legally wedded wife. Hence the action of the respondents in withholding the pension on the ground of representation received from 5th respondent is legally untenable. Learned counsel further submits that the family pension scheme is in the nature of welfare scheme framed to provide reliefs to the widow and children of the deceased employee and the employee has no control over the family pension as he is not required to make any contribution to it. Hence the action of respondents in not releasing the pension amounts to in violation of Article 21 of the Constitution of India.

6. To support his contentions, learned counsel for the petitioner has relied upon a decision of Hon'ble Supreme Court reported in **Deoki Nandan Prasad Vs. State of Bihar and others** has held that:

"The payment of pension does not depend upon the discretion of the Government but is governed by the relevant Rules and anyone entitled to the pension under the Rules can claim it as a matter of right."

7. Learned counsel for the petitioner while relying upon the decision, submits that, even in the Service Record, the petitioner's name was entered as claimant for all his benefits and thus as per CCS pension rules no other

person except those designated under the rules is entitled to receive the family pension. In fact, no succession certificate under Indian Succession Act, 1952 is required for getting family pension. The family pension is neither debt nor a security of the deceased employee or pensioner for which succession certificate can be applied u/s.372 of Indian Succession Act, 1952. He further submits that the 5th respondent has filed S.O.P.No.6/2016 before the Hon'ble Senior Civil Judge at Vizianagaram against the petitioner herein seeking succession certificate in her favour to receive Gratuity, Group Insurance, Contributory Provident Fund and leave salary of deceased husband excluding family pension. In view of the same there is no bar on the respondent Nos.3 and 4 herein to release family pension to the petitioner herein. He further submits that, in spite of submitting claim form under Form No.13 way back in 2014, the action of the respondents in not providing family pension to the petitioner on the ground of receiving a representation from 5th respondent is illegal, arbitrary and contrary to the CCS Pension Rules, 1972 and hence requests this Court to pass appropriate orders.

8. Per contra, learned Government Pleader appearing for the official respondents opposed for allowing the writ petition and prayed to dismiss the same.

9. On the other hand, learned counsel appearing for the 5<sup>th</sup> respondent while denying the contents made by the petition, reiterated the contents made in the counter affidavit. He submits that the S.O.P. filed by the 5<sup>th</sup> respondent is pending before the competent civil court and came up for cross

examination. He submits that when the litigation pending before the civil court, the petitioner herein filed the present writ petition is nothing but an abuse of process of law and therefore the writ petition is not maintainable and is liable to be dismissed.

10. Perused the material on record.

11. It is the contention of the petitioner that the petitioner herein is the legally wedded wife of late V.Sitram Murthy and their marriage was performed on 14.5.1987 and they were blessed with two daughters and one son. It is further contention of the petitioner that, after demise of deceased husband of the petitioner, she made proposals for pensions and other death benefits and also for providing appointment to her son under compassionate grounds to the respondents. Thereafter the 4<sup>th</sup> respondent vide his Memo dated 21.12.2014 informed the petitioner that to get legal heir certificate from Tahsildar, Jami concerned. Though she made several representations, but the 2<sup>nd</sup> respondent has not issued certificate till now.

12. Moreover it is the contention of the 5<sup>th</sup> respondent counsel that the 5<sup>th</sup> respondent is the legally wedded wife of V.Seetharamamurthy of Jami village and she was blessed with two children and one of them died. Further, she filed Maintenance case and the same was allowed. It is also contended that, after demise of deceased husband, her son filed SOP No.6 of 2016 on the file of the Senior Civil Judge Court, Vizianagaram for grant of succession

certificate, in their favour, for the death benefits of her late deceased husband V. Seetharamamurthy.

13. On considering the submissions of both the learned counsels and on perusing the entire material on record, this Court is of the view that, the SOP No.6 of 2016 is at the stage of trial and has come up for the cross examination of PW,1 and further it appears that the present writ petition filed by the petitioner is nothing but an abuse of process of law in an attempt to pre-empt the judgment/order of the competent Civil Court in the said SOP.

14. Since as per Civil Service (Conduct) Rules 1964 issued in G.O.Ms.No.168/GA(Ser-A) Department dated 5.3.1990 under Rule 25 *“that no Government employee who has a wife living shall contract another marriage without first obtaining permission of the government notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to him.”*

15. Having regard to the facts and circumstances of the case and on considering the submissions of both the learned counsels, this Court is of the view that, as the SOP is pending before the competent Civil Court for grant of Succession Certificate the petitioner has to take steps for obtaining the said certificate before the competent respondents but with regard to release of death benefits etc., are not possible at this stage. Therefore finding no merit in the instant writ petition and the same is liable to be dismissed.

16. Accordingly the Writ Petition is dismissed. However, it is left open to the petitioner to take steps for obtaining succession certificate before the competent Civil Court.

17. There shall be no order as to costs.

18. As a sequel, all the pending miscellaneous applications shall stand closed.

---

**DR. K. MANMADHA RAO, J.**

*Date :* -03-2025

*Gvl*

**HON'BLE DR. JUSTICE K. MANMADHA RAO**

**WRIT PETITON No.560/2021**

*Date : 28.03.2025*

*Gvl*