

HIGH COURT OF ORISSA: CUTTACK

W.P.(C) No. 9615 of 2018

In the matter of an application under Articles 226 and 227 of
Constitution of India.

Smt. Gourimani @ Gouri Singh

...Petitioner

-Versus-

General Manager, East Coast Railway
and others

...Opp. Parties

For Petitioner : M/s. A.K. Hata, N. Panda, D.P. Das,
S. Srichandan & S. Panda

For Opp. Parties : M/s. Anindya Kr. Mishra,
N.N. Mohapatra & A.K. Sahoo

P R E S E N T:

THE HONOURABLE THE CHIEF JUSTICE SHRI K.S. JHAVERI

A N D

THE HONOURABLE SHRI JUSTICE K.R. MOHAPATRA

Date of Judgment : 12.12.2019

K.S. JHAVERI, CJ. By way of this writ petition, the petitioner has challenged the
action of the opposite parties in not disbursing the arrear pay, pension and
other legitimate dues.

2. Facts giving rise to the present case are that the petitioner is the daughter of Rama Chandra Singh (deceased employee) and she has claimed the retirement benefit on the death of her father. Rama Chandra Singh (deceased-employee) had entered into the Railway Service in 1962 as Loco Foreman, Bhadrak. He was promoted to the rank of Driver 'C' in 1979. Thereafter the deceased employee was transferred to Khurda Road and promoted to the post of Driver 'B' in 1980, Driver (P) in 1989 and Driver 'A' Special in 1990 to drive Express/Mail trains.

At the relevant time, the deceased employee was allotted with Railway Quarter No.A/150-A (Type-II) at Loco Colony, Jatani vide order dated 03.06.1985. The mother of the petitioner namely, Basanti fell ill in 1994 while they were staying in the said quarter, so the deceased-employee had to engage a part-time maid servant to look after her wife and other family members. Subsequently, the mother of the petitioner died on 14.09.1995. After such incident, the father of the petitioner requested the authority for his transfer to the nearby place of his village as he wanted to shift his children to the native place.

3. Learned counsel for the petitioner submits that the father of the petitioner was murdered on 20.08.1997 while he was on duty for driving the Mail Train. His dead body in uniform and duty bag was recovered in

the next morning from the field near Loco Colony. In the circumstances, the eldest son of the deceased employee requested the authorities to release the financial assistance for obsequies, unpaid salary, family pension and arrears to meet their day-to-day sustenance and expenses. It is further submitted that the railway authorities issued letter to the deceased employee family members for early settlement of dues after vacation of quarter and handing over possession of the railway materials. In the meantime, the eldest son of the deceased employee had submitted necessary documents for such purpose. The railway authorities after due receipt of the legal heir certificate, death certificate, and NDC/NOC, issued a letter on 07.04.2000 (Annexure-8) to the eldest son of the deceased employee, in which it was stated that there are two claimants. Smt. Uma Singh (the maid in the family of the deceased-employee) also submitted application for release of retirement-cum-death benefit etc., filing an affidavit, death certificate as well as legal heir certificate of the deceased employee showing her as wife (widow) of said R.C. Singh. The eldest son of the deceased, namely, Gajendra, replied to the railway authority that Uma Singh was never a wife of his father. He has also stated that his father has never married to any one after his mother's death.

The brother of the petitioner thereafter moved from pillar to post to receive the retirement-cum-death benefit of their father, but to no effect. As such, they filed O.A. No.425 of 2006 before the Central Administrative Tribunal, Cuttack Bench, Cuttack. During pendency of the O.A., the brother and sister of the petitioner died. Thereafter, the surviving member of the deceased-employee had to run to the authorities as well as move the Tribunal for redressal of their grievance, but in vain. Hence, this writ application has been filed.

4. We have heard Mr. A.K. Hota, learned counsel for the petitioner and Mr. A.K. Mishra, learned counsel for the opposite party-East Coast Railway and perused the record.

5. The tragedy of the petitioner is that she has lost her father and the family members are not getting the pension and other retiral benefit. There are rival disputes between the families of the deceased employee and one Uma Singh. The dispute may be decided by the Civil Court. This is not the issue to be decided by the Central Administrative Tribunal since it is not related to service matter.

6. Mr. Mishra, learned counsel for the opposite party-Railway brought to our notice the letter 13.11.2018 (Annexure-Q/1) issued by the

Sr. Divisional Personnel Officer, Eco Rly, Khurda Road, which reads as under:

"To

The General Secretary,
Senior Citizen Welfare Society
ECoR, Khurda Road.

Sub: Grant of family pensions to Smt. Uma Singh, claimed to be wife of Late Ramachandra Singh Ex-LP/KUR expired on 21.08.1997.

Ref:- 1) WPC No.9615/2018 filed by Gourimani Singh in Hon'ble CAT/CTC.

2) L. No.RSCWS/REP/2018 Dtd. 04.11.2018 of Railway Senior Citizens Welfare Society, ECoR/BBSR.

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In reference to above, it is informed that Your representation was examined in details and it is observed that Uma Singh has neither submitted any succession certificate nor any supported documents regarding her marriage to Late R.C. Singh, Ex-LP/KUR expired on 21.08.1997, as per S & WI's report the case has been approved for settlement payment in favour of eligible legal heirs (Children) of ex-employee.

As such, Uma Singh, claimed to be wife of deceased staff may be advised to produce necessary succession certificate form the competent authority to this office within a stipulated period of two months to substantiate her claim for processing of settlement dues as it is long pending and now Gourimani Singh, married daughter of Late R.C. Singh, Ex-LP/KUR has also filed one WPC in Hon'ble High Court, Cuttack for non-payment of settlement dues.

Sd/-

Sr. Divisional Personnel Officer

ECoRly, Khurda Road

Copy to Smt. Gourimani Singh, D/o. Late Ramachandra Singh, Ex-LP/KUR Vill-Balka, Mayurbhanj (ODISHA)."

7. In view of the aforesaid letter issued by the East Coast Railway under Annexure-Q/1, the petitioner is entitled to pension in view of the first nomination made by the deceased employee. Accordingly, the petitioner is required to file an undertaking that if ultimately it is found by the competent court that Uma Singh, who claims to be wife of the deceased, is entitled to pension, both the party will share the pension and other dues in question. In that event the responsibility of the petitioner, in whose account the pension and retiral benefit would be credited, to compensate the other party (Uma Singh). The railway authority will not be required to pay it again.

8. In that view of the matter, we pass the following order:

The petitioner will file an undertaking before the Railway Authority that she will receive the amount. In case, any decree is passed against the petitioner, she will make payment to the other set of families which is claiming pension in accordance with the direction of the competent court. If any amount is deducted from pension for detention of quarter by the second set of family, it will be open for the petitioner to get

it settled while they put their claim before the competent court during adjudication. The undertaking will also be filed by the petitioner that the Railway authority will not be responsible for any future payment to the second set of family.

9. With the above observation and direction, the writ petition is disposed of. The connected Misc. Case/I.A., if any, also stands disposed of.

No order as to costs.

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K.R. Mohapatra
(Judge)

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K.S. Jhaveri
(Chief Justice)