

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 20126 of 2015

Kuni Samantaray

.....

Petitioner

Mr. S.K. Nayak-3, Advocate

Vs.

*Orissa Administrative Tribunal,
Cuttack & Ors..*

.....

*Opposite Parties
State Counsel*

CORAM:

**DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO**

ORDER

13.04.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Nayak-3, learned counsel for the petitioner and learned Additional Government Advocate appearing for the State-opposite parties.

3. The petitioner has filed this writ petition assailing the order dated 08.07.2015 passed in O.A. No.3015 (C) of 2009, by which the Odisha Administrative Tribunal, Cuttack Bench, Cuttack has dismissed the said O.A. refusing to entertain the prayer of the petitioner for grant of family pension in terms of Orissa Pension Rules, so also other consequential service and financial benefits.

4. Mr. S.K. Nayak-3, learned counsel for the petitioner contended that in 2008, the petitioner filed an application for compassionate appointment on getting information under RTI Act, but the same was denied. Thereafter, she approached the tribunal by filing O.A. No.3015(C) of 2009 and the tribunal vide order dated 08.07.2015 dismissed the same refusing to grant family pension in her favour. Therefore, she has approached this Court by filing this writ petition.

5. Learned Additional Government Advocate contended that the petitioner had approached the tribunal beyond the limitation period. Apart from the same, once the husband of the petitioner was removed from service in 1989, the petitioner cannot claim family pension by approaching the tribunal in 2009. Thereby, the entire claim cannot sustain in the eye of law and the tribunal is well justified in passing the order dismissing the O.A.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, it appears that the petitioner is the wife of late Jayakrushna Samantaray, who died on 08.11.1999 while working as Collection Moharir under Revenue Supervisor, Bellaguntha. The petitioner, being the widow, filed an application for grant of pensionary benefits, as admissible to the deceased husband. But fact remains, the petitioner's husband was removed from service on 07.07.1989, giving effect from 05.05.1989, by following due procedure of enquiry and calling upon show-cause issued in 1987, which was communicated to the husband of the petitioner. The husband of the petitioner was remained silent from 07.07.1987 till his death on 08.11.1999. After the death of her husband, the petitioner claimed for compassionate appointment in 2001 after getting legal heirs certificate in 2001, but the same was rejected in 2003. Thereafter, the petitioner remained silent and when RTI Act came into effect, she came to know about the removal order of her husband. Accordingly, she filed an application for grant of pensionary benefit as due and admissible to the deceased employee and the same was also rejected. Consequentially, she filed O.A. No.3015(C) of 2009 and the tribunal, after due

adjudication, vide order dated 08.07.2015, came to a finding that since the husband of the petitioner faced the removal order in 1989 and, as such, the same was never challenged during his life time till 1999, after his death the petitioner cannot claim compassionate appointment nor the pensionary benefits. The punishment of removal from service was passed, taking into consideration misconduct committed by him, which gets support from the case of Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu, (2014) 4 SCC 108, wherein the apex Court held that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize whether the writ at a belated stage should be entertained or not. This is the bright example of such a case, where the petitioner has approached to the tribunal at her own leisure or pleasure. As such, the basic principle of delay comes in the way of equity. Delay and laches may not be fatal, but in most circumstances inordinate delay on the part of the petitioner, who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, the law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury.

7. In view of such position, since the petitioner had approached the tribunal at a belated stage, and considering the factual and legal aspects, the tribunal vide order dated 08.07.2015 passed in O.A. No.3015 (C) of 2009 refused to grant relief as claimed by the petitioner.

8. Therefore, this Court does not find any error apparent on

the face of the order dated 08.07.2015 passed by the tribunal in O.A. No.3015 (C) of 2009 so as to cause interference of this Court. Accordingly, the writ petition merits no consideration and is dismissed.

(DR. B.R. SARANGI)
JUDGE

Alok/Puspa

(SAVITRI RATHO)
JUDGE

