

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6635 of 2022

Laxmi Mallick

Petitioner

....
Mr.Sashi Bhusan Jena, Advocate

-versus-

State of Odisha and others

Opposite Parties

....
Mr. YSP Babu, AGA for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

21.03.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the State.
3. The present writ petition has been filed with the following relief:

“Under the aforesaid facts and circumstances, it is therefore humbly prayed that this Hon’ble Court may graciously be pleased to grant the following reliefs:

- i) The writ application be allowed.
- ii) To direct the opposite parties to comply the direction of the learned Tribunal as at Annexure-6 within a stipulated period and sanction minimum pension as due and admissible in favour of her late husband and sanction family pension in favour of the petitioner.
- iii) To direct the opposite parties to pay the arrear financial benefits to the petitioner with bank interest.
- iv) And pass such other order/orders as may be deemed fit and proper for the interest of justice.

And for this act of kindness, the petitioner shall as in duty bound ever pray.”

4. It is submitted by learned counsel for the Petitioner that the issue involved herein has been decided by the learned Odisha Administrative Tribunal, Cuttack Bench, Cuttack, disposed of O.A. No.4279(C) of 2013 on 15.01.2018 with the following direction:

“Considering the submission, as it appears that in OA No.3574(C) of 2011, the respondent had been directed to add so much prior of service from DLR/NMR to compute ten years of qualifying service for the purpose of pension and the said order of the Tribunal is supported by the order of the Tribunal in O.A. No.412(C)/2008 and also confirmed by the Hon’ble High Court in W.P.(C)12377/09, there is no scope to treat the applicant differently and thereby to discriminate him. Accordingly, the O.A. is allowed and respondent/authorities are directed to take so much prior of service from the DLR/MNR period and add to the regular service of the applicant to make him eligible for minimum pension, as due and admissible.

Accordingly, the order vide Annexure-9 is quashed.”

5. However, considering the case of the Petitioner in the light of the order passed by the learned Tribunal and as the husband of the Petitioner has passed away in the meantime, it is further submitted that since the order has not been implemented till date, the present Petitioner has filed the writ petition for sanction and disbursement of the amount as admissible and due to her late husband.

6. Mr. Jena, learned counsel for the Petitioner further draws attention of this Court that similar issue has already been adjudicated by the Division Bench of this Court in ***W.P.(C) No.20762 of 2015 (State of Odisha and others vs. Sri Kulamani Mishra and another)*** which has been decided on 02.03.2016. Since the judgment of this Court has already confirmed by the Hon’ble apex Court C.C. No(s).18127 of 2016, disposed of on 30.09.2016. It is further

submitted that in the said case, the principle has already been decided by the Hon'ble apex Court.

7. Learned counsel for the State on the other hand submits that the representation of the Petitioner pending before the Commissioner-cum-Secretary, Water Resources Department, Govt. of Odisha, Bhubaneswar-Opposite Party No.1. He further submits Opposite Party No.1 may be directed to consider the said representation of the Petitioner within a stipulated period of time.

8. Considering the limited nature of grievance, this Court disposes of the writ petition with a direction to the Opposite Party No.1 to consider the specific direction issued by the Tribunal in O.A. No.4279(C) of 2013 and also consider the claim of the Petitioner in the light of the judgment delivered by this Hon'ble Court. Further the final benefits as would be determined by the Authority as due and admissible to the late husband of the Petitioner shall be sanctioned and disbursed in favour of the Petitioner within a period of one month thereafter. The entire exercise shall be completed within a period of three months from the date of production of certified copy of this order.

9. With the aforesaid direction, the writ petition stands disposed of.

10. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge