

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12242 of 2022

Shantilata Naik

....

Petitioner

Mr. Hrudananda Mohapatra, Advocate

-versus-

***Odisha Power Transmission
Corporation Limited, Bhubaneswar
and others***

....

Opposite Parties

Mr. P.C. Das, ASC

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

04.07.2022

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. It is submitted by learned counsel for the Petitioner that Petitioner is the wife of one Tripura Naik, who died in harness. It is also contended by learned counsel for the Petitioner after death of first wife Mamata Naik in the year 2012, Tripura Naik married to the present Petitioner, i.e. Shantilata Naik. From out of the first wife, three female children were born, who are now married. Further, after the death of her husband, the present Petitioner applied for pensionary benefits, however, Opposite Party No.7 has issued a legal heir certificate in favour of the three children of the first wife of deceased Tripura Naik, wherein the name of the present Petitioner does not find place. Mr. Mohapatra, learned counsel for the

Petitioner submits that since the Tahasildar has not reflected the name of the present petitioner in the legal heir certificate, the Petitioner has been deprived of getting the pensionary and other retiral benefits of his deceased husband. It is further submitted that no Marriage Certificate is available with the Petitioner to establish her right. He further submits that he has other documents to establish the marriage with the Tripura Naik

4. Learned counsel for the State submits that upon verification of records and after an enquiry was conducted by the R.I., the Tahasildar, Chendipa, O.P. No.7 issued the Legal Heir Certificate in favour of the three children of Tripura Naik, therefore there exists a presumption with regard to genuineness of the legal heir certificate issued by the Competent Authority. The Authority has not erred in not considering the case of the present Petitioner for receiving the retiral as well as pensionary benefits as due and admissible to the deceased government employee.

5. Having heard learned counsel for the parties and considering the materials placed before this Court, this Court is of the considered view that the Petitioner has made out a prima facie case that needs to be considered by the Authority before disbursing the pensionary and retiral benefits in favour of the legal heirs. At least an opportunity should have been given to the present Petitioner to establish her claim.

6. In such view of the matters, this Court directs Opposite Party No.7 to consider the case of the Petitioner for including the name of the present Petitioner, namely, Shantilata Naik, as the legal heir of deceased Tripura Naik in the legal heir certificate, if necessary, an

enquiry be conducted and opportunity of hearing be provided to all the legal heirs. Further Petitioner is directed to produce all the documents in support of her case. On the basis of the aforesaid hearing and enquiry, if required, a fresh legal heir certificate be issued, if there is no legal impediment for the Opposite Party No.7. Further, Opposite Party No.3 is also directed not to disburse any amount payable to the deceased Govt. employee as due and admissible on the basis of the legal heir certificate issued by the Opposite Party No.7. After conducting proper enquiry and after providing opportunity of hearing to the legal heirs, a fresh legal heir certificate shall be issued by the Opposite Party No.7 and on the basis of such final legal heir certificate the claims of the rival parties be finalized and paid to them.

7. With the aforesaid observation and direction, the writ petition stands disposed of.

8. Issue urgent certified copy as per rules.

(*A.K. Mohapatra*)
Judge