

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.32181 of 2011

(Through Hybrid mode)

Shantilata Barik and others

....

Petitioners

Mr. B.Singh, Advocate

-versus-

***Secretary, Home Affairs
Department, Bhubaneswar and
others***

....

Opposite Parties

Mr. A.K.Sharma, Addl. Govt. Advocate

CORAM: JUSTICE ARINDAM SINHA

ORDER

19.04.2022

Order No.

14.

1. Mr. Singh, learned advocate appears on behalf of petitioners and on 3rd March, 2022 had submitted, petitioners are entitled to compensation and employment for one of them on death of Sukura Singh, who died while on duty as a Grama Rakshi. He relied on a Division Bench judgment of this Court in **Niranjan Nayak vs. State of Odisha**, reported in **2007 (II) OLR 197**, paragraph 6 to submit, view taken was that Grama Rakshi post was under administrative control of District Magistrate and is a civil post. He then relied on rule 1 (3) in Odisha Civil Services (Compassionate Grant) Rules, 1964 to submit, the rules apply to all State Government servants, including the work charged job-contract and contingency-paid employees other than daily-rated employees. Rule 3 provides for entitlement of the family of a Government servant to be

eligible to compassionate grant. He had handed up resolution dated 21st June, 2010, whereby Government of Odisha, Finance Department resolved, inter alia, rate of compensation in grant to be Rs.4,00,000/- for a Government servant died while on duty. He points out that the deceased died during duty of night patrolling, in a road accident. Those were the facts.

2. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State and draws attention to paragraph 8 in the counter. He submits, there is no provision available to provide compensation to petitioners. The deceased was not serving as regular employee and, therefore, the scheme of rehabilitation assistance cannot be extended to them. He submits further, at the time of death the deceased was drawing Rs.1000/- per month as allowance, not salary (as per annexure B/3 in the counter) i.e., below the eligibility criteria of salary to entitlement of compensation.

3. The question for consideration is whether the rules of 1964 apply to the deceased. In event it does, under resolution dated 21st June, 2010, compensation of Rs.4,00,000/- is to be paid.

4. The rules of 1964, inter alia, provide under rule 1 as under.

“1. (i) These rules may be called the Orissa Civil Services (Compassionate Grant) Rules, 1964.

(2) They shall come into force at once.

(3) These rules shall apply to all State Government servants including the work charged job-contract and contingency-paid employees other than daily-rated employees.

Explanation – For the removal of doubts it is hereby declared that these rules shall not apply to persons to whom the Workmen's Compensation Act, 1923 (Act 8 of 1923) applies and the members of the All-India Services."

5. Orissa Grama Rakshi Rules, 1969 provides under rule 14, as below.

"14. A Grama Rakshi shall receive an allowance of one hundred rupees per month. The officer-in-charge of the Police-station shall submit the acquittance roll in respect of all the Grama Rakshi of the police-station along with their absentee statement for each month to the Superintendent of Police of the District for drawal of their monthly allowances and be responsible for the prompt disbursement of such allowances every month to the Grama Rakhee. The Superintendent of Police of the district shall be the Drawing Officer for the purpose. संचालक न्यायो

6. The rules of 1969 were made on powers granted under Orissa Grama Rakshi Act, 1967. The rules provide for monthly allowance to be paid to a Grama Rakhi. Further conditions of service require the Grama Rakhi to be on probation for one year, after which period of work and conduct if found satisfactory, he may be permanently appointed to the post. The rules of 1964 are applicable to all State Government servants including work charged job-contract and contingency-paid employees, other than daily-rated employees. The deceased having been entitled to monthly allowance under the 1969 rules, cannot be said to be

a daily-rated employee. This fact is supported by State itself in contending that the deceased was drawing Rs.1000/- per month.

7. The writ petition succeeds. State is directed to pay the compensation of Rs.4,00,000/- (rupees four lakhs) in terms of resolution dated 21st June, 2010 within three weeks of communication.

8. The writ petition is disposed of.

(Arindam Sinha)
Judge

RKS

