

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OA) No.596 of 2018

Miss. Chandana Mohapatra

....

Petitioner

-versus-

State of odisha & Others

....

Opp. Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
13.10.2022

I.A. No.370 of 2022

Order No

02.

1. This matter is taken up through Hybrid Mode.
2. This is an application for modification/correction of the order dated 13.09.2022 passed by this Court in the aforesaid writ petition.
3. Heard the learned counsel for the Petitioner.
4. Considering the grounds taken in I.A., the order dated 13.09.2022 is recalled.
5. Accordingly, the I.A. is disposed of.

(Biraja Prasanna Satapathy)
Judge

W.P.(C) (OA) No.596 of 2018

03.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. P.K.Mishra, learned counsel for the Petitioner, Mr. N.N.Satapathy, learned standing counsel appearing for the Opp. Party and Mr. S.K.Patra, learned counsel appearing for the Opposite Party No.4.

3. The Petitioner is aggrieved by the rejection of her claim to get the benefit of family pension vide order passed by the Director of Secondary Education, Odisha, Bhubaneswar-Opposite Party No.2 under Annexure-11 to the Writ Petition.

4. It is submitted that after the death of her mother, the present petitioner being the unmarried daughter and being eligible to get the benefit of family pension as provided under OCS (Pension) Rules, 1992 made her application in that regard in the prescribed format. But the Opposite Party No.2 vide the impugned communication dated 30.04.2016 under Annexure-11 rejected the said claim only on the ground that the Petitioner has been adopted after the retirement of the deceased Government employee. The Petitioner seeking reconsideration of the said claim though once again approached the Opposite Party No.1 under Annexure-12, but the Opposite Party No.2 once again rejected the said claim while indicating that the matter has been referred to the Hon'ble Minister for appraisal.

5. Heard learned counsel for the Parties.

6. Even though notice of the Writ Petition was issued on 9.4.2018, but no counter affidavit has been filed. But this Court after going through the materials available on record finds that the Petitioner is the only daughter though adopted and the said fact is reflected in the legal heirs certificate issued by the Tahasildar, Puri under Annexure-7. This Court also finds that the question of adoption is not a ground to deny the benefit of family pension in favour of the Petitioner. The ground taken in Annexure-11 that the petitioner was adopted after the retirement of the deceased employee is not a ground to deny the benefit of the family pension. Not only that after receipt of the communication at Annexure-11, when the petitioner moved Opposite Party No.1 for reconsideration, Opposite Party No.2 should not have dealt with the matter by communicating the impugned communication at Annexure-13.

7. In any view of the matter, this Court finds that the Petitioner is otherwise eligible to get the benefit of family pension as the unmarried daughter of the deceased pensioner.

8. While quashing the communication issued under Annexure-11 & 13, this Court directs the Opposite Party No.3 to process the application of the petitioner within a period of one month from today. The opposite party No.4 is directed to take appropriate action on such recommendation made by the Opposite Party No.3 within a further period of two months. The arrear entitlements as due and admissible from the death of the deceased pensioner i.e. 24.05.2014 be also disbursed within the aforesaid time period.

9. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Debasis

