

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No. 3060 of 2016

Radharani Behera

....

Petitioner

-versus-

**Executive Engineer, R & B.
Division, Cantonment Road &
Ors.**

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

20.12.2022

Order No

- 05.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. Debajyoti Chatterjee, learned counsel for the Petitioner and Mr. D.K. Mohanty, learned Addl. Standing Counsel appearing for the O.P. No. 1 as well as Mr. S.K. Patra, learned counsel appearing for the Accountant General, Odisha.
3. The present writ petition has been filed seeking a direction on O.P. No. 1 to release the retiral dues of her late husband Rabi Behera.
4. It is contended that the husband of the Petitioner while working in the establishment of O.P. No. 1 died on 22.08.2011. Subsequent to the death of the employee concerned, the Petitioner vide Annexure-2 moved the O.P. No. 1 seeking sanction of pension and other retiral benefits as well as the family pension in her favour. It is also contended that some benefits accruing to the deceased employee were released in favour of the Petitioner. But the claim for release of pension and other benefits were never settled and

accordingly the present writ petition was filed with the aforesaid prayer.

5. Mr. Mohanty, learned ASC on the other hand contended that since there is a dispute with regard to status of the Petitioner, O.P. No. 1 did not take any further action even though the pension papers were submitted by the Petitioner.

6. Mr. S.K. Patra, learned counsel appearing for the Accountant General on the other hand submitted that since the pension papers of the Petitioner were never forwarded by the O.P. No. 1, O.P. No. 2 is not in a position to consider the same.

7. Having heard learned counsel for the Parties and after going through the materials available on record, this Court finds that the deceased employee prior to his death has sworn an affidavit on 29.06.2010, wherein he has stated as follows:-

"I, Sri Rabi Behera, aged about 57 years, Son of Late Danei Behera, of Vill. Nuahat, PO/Ps. Banarpal, Dist. Angul, at present residing at Killa Fort, P.S. Cantonment, Dist. Cuttack now serving as Peon, in P.W.D. (r & B) at Killa Fort, Cuttack do hereby solemnly affirm and state as follows:

- 1. That I had married one Saraswati Behera of Talcher in the year 1976 and in my service book the aforesaid name has been mentioned as nominee of me.*
- 2. That my said wife, namely Saraswati Behera died on 1983 without any issue.*
- 3. That I have married one Radharani Behera, daughter of late Kanhei behera of Vill. Sanaratapur, PO. Dairajpur, Ps. Pingala, Dist. Medinapur, (West Bengal) for the second time in the year 1990 and since then we are living as husband and wife and led happy conjugal life in my aforesaid address.*
- 4. That, this affidavit is meant for change of my nominee in place of my first wife namely Late Saraswati Behera to my second wife namely Radharani Behera."*

8. This Court also finds from the materials placed before this Court that the Petitioner was released with some benefits vide letter dtd.27.10.2014 of O.P. No. 1 available at Page 24 of the brief. O.P. No. 1 in the letter at Page 24 has accepted the status of the Petitioner as the wife of late Rabi Behera. In view of the materials available on record, this Court while disposing the writ petition, directs O.P. No. 1 to submit the pension papers of the Petitioner before the O.P. No. 2 within a period of one month from the date of receipt of this order. O.P. No. 2 is also directed to process the same and sanction the pension and other pensionary benefits as due and admissible within a further period of two (2) months from the date of receipt of the pension papers from O.P. No. 1, if there is no other legal impediment. Petitioner is also directed to produce relevant documents as will be required by the O.P. No. 1.

9. The writ petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha