

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C. (OAC) No.3227 of 2014

Sachidanda Pradhan

....

Petitioner

None

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. R.C. Pattnaik, ASC for School
and Mass Education

CORAM:
JUSTICE M.S. RAMAN

ORDER

29.04.2022

Order No.

09.

1. This matter is taken up through virtual/physical mode.
2. The Original Application No. 3227 of 2014 was filed before the State Administrative Tribunal, Cuttack Bench, Cuttack. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OAC) No. 3227 of 2014.
3. The Petitioner states that his father was appointed as Assistant Teacher on 2nd April, 1966 and got retired after the age of superannuation. Before his final pension could be disbursed, his father died on 14th March, 2005. The present petition has been filed with a prayer to direct the Opposite Parties to disburse family pension as well as pensionary benefits.
4. None appears for the Petitioner at the time of call.
5. This matter has been pending since 2014. It seems the grievance of the Petitioner has been ventilated in the meantime. A counter has come to be filed by the Opposite Parties.

6. Mr. R.C. Pattnaik, Additional Standing Counsel for the School and Mass Education has placed on Paragraph 4&5 of the counter affidavit which is reproduced here and below:-

“4. That, in reply to the averments made in para-6.10 and 6.19 of the O.A., it is respectfully submitted here that as per legal heir certificate issued by the Tahasildar, G. Udayagiri on 14.11.2005 (Annexure-4 of the O.A), the following legal heirs who are the sons of late Pradhan born out of 1st wife are eligible to get family pension in order of preference as per rule 56(7) © of O.C.S. (Pension) Rules, 1992 for the period as noted against each taking into account their date of birth-

1.Sriyapati Pradhan –Son-24years-15.3.05 to 27.3.05

2.Patitapaban Pradhan-Son-21years-8.3.05 to 8.01.05

3.SachidanandaPradhan-Son-19years-

19.10.08to7.3.13

After 7.3.2013 the second wife of late Pradhan is eligible to get full family pension (100% family pension) as per rules.

As the Pension Sanctioning Authority had not submitted family pension proposal in proper manner in favour of the eligible children born out of 1st wife late Pradhan, the Respondent No.3 objected the proposal time and again with a request to submit proposal in proper manner. The undertakings furnished by the eligible elder brothers to authorize family pension in favour of the applicant, the youngest son is not supported by the pension Rules. The B.E.O., Raikia, the present P.S.A., had submitted family pension proposal with relevant document for authorization of family pension in favour of Sri Sachidanda Pradhan, the youngest eligible son of late Pradhan vide his letter No.232 dated 3.3.2015. On scrutiny, it is found that the applicant, Sri Sachidanda Pradhan is eligible for 50% of family pension for the period from 19.10.3008 to 7.3.2013 i.e., till attaining the age of 25 years, the date of his birth being 8.3.1988. Accordingly, 50% family pension in favour of the applicant has been authorized vide FPPO. No. 16395 AF issued in letter No. 21828/CA dated 27.4. 2015 of Respondent No.3.

5. That, the applicant has been authorized with family pension as due and admissible to him as stated in para-4 above. Since, there is no provision for authorization of family pension admissible to the elder brothers in favour of the applicant, the Respondent No.3 could not be able to authorize

the 50% of family pension admissible to the elder brothers of the applicant relating to the period from 15.3.2005 to 18.10.2008. However, 50% family pension admissible to the elder brothers Sri Sriyapati Pradhan and Sri Patitapaban Pradhan for the period from 15.3.2005 to 27.3.2005 and 28.3.2005 to 18.10.2008 respectively shall be authorized on receipt of family pension proposal in their favour from the Respondent No.4, (the P.S.A) after due sanction as requested in the letter No.21830/CA dated 27.4.2015 of Respondent No.3”

7. In view of the above and admitted fact, Paragraph-4 stated that the Petitioner is eligible for 50% of family pension from the period 19th October, 2008 to 7th March, 2013, till the Petitioner attain the age of 25 years, which has been authorized vide letter dated 27th April, 2015, no cause of action survives.

8. In view of the above, the writ petition is dismissed.

(M.S. Raman)
Judge

Laxmikant