

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29870 of 2022

Nisha Naik

....

Petitioner

Mr.Srikar Kumar Rath, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr.A.Behera, A.S.C.

Mr.S.K.Patra, Advocate

For A.G.Odisha

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.11.2022

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 Additional Standing Counsel and Mr.S.K.Patra, learned counsel for A.G.Odisha.
3. The present writ application has been filed by the Petitioner with a prayer for a direction to the Opposite Parties, particularly Accountant General, Odisha, Opposite Party No.4 to finalise the family pension, gratuity, provident fund and other retiral dues as is due and admissible to the Petitioner and be sanctioned and disbursed within a stipulated period of time.
4. It is submitted by the learned counsel for the Petitioner that the husband of the Petitioner was working as Chowkidar in the Office of the Executive Engineer, R & B, Keonjhar Division on 11.10.1964. After rendering 28 years of service of continuous service, the husband of the Petitioner died/missing from 07.02.1992. However he

retiral benefit as is due and admissible to the husband of the Petitioner has neither been paid to the husband of the Petitioner nor to the Petitioner. It is further contended that the Petitioner although approached the authority on several occasions, no action has been taken. Finally the Petitioner was compelled to approach this Court on an earlier occasion by filing W.P.(C) No.3519 of 2020. In the said writ application this Court by order dated 07.02.2020 directed the Opposite Party no.2 to consider the case of the Petitioner and to grant family pension subject to fulfillment of the conditions laid down therein.

5. It is further contended by the learned counsel for the Petitioner that after order dated 07.02.2020 the Petitioner approached the authority. The authority having pleased to sanction and disburse the provisional family pension and arrear dues payable to the husband of the Petitioner has been paid to the Petitioner in the meantime. However, she has not received the final family pension and other retiral dues like gratuity etc. which compelled the Petitioner to approach this Court again by filing the present writ application.

6. Learned Additional Standing Counsel on perusal of the writ application reveals that the Office of the Superintending Engineer, Keonjhar R & B Circle has already forwarded the calculation to the Principal A.G. Odisha vide letter No.7920 and the same is pending at the end of Accountant General. The same is stated to be pending before him. Therefore, the Government has completed the ground work and forwarded the documents as is required to the Accountant General.

7. Mr.S.K.Patra, learned counsel appearing for Accountant General (AE), Odisha, Opposite Party No.4 submits that perusal of Annexure-11 reveals that the documents were sent only on

07.09.2022 and he has no further instruction in the matter. He further submits that the matter may be probably under scrutiny and a decision is likely to be taken in near future.

8. Having heard learned counsel for the respective parties and upon careful consideration of the factual background of the case, this Court is of the view that the Petitioner, who is the widow of Ex-Government employee could have been paid her legitimate dues in time. But however, the authority has not done that within a reasonable time. Be that as it may, on the basis of the record, it appears that a recommendation has already been sent to the Accountant General (AE), Odisha Opposite Party No.4 to vide Memo dated 07.09.2022. In such view of the matter, the writ application is disposed of directing Accountant General (AE), Odisha Opposite Party No.4 to consider the aforesaid Memo under Annexure-11 and take a decision within six weeks from the date of production of certified copy of this order and in the event all the requirements have been complied then the pensionary and other retiral benefit as is due and admissible be paid to the Petitioner within a period of four months from the date of taking such decision.

9. With the aforesaid observation, the writ application stands disposed of.

9. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra)
Judge