

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No. 1629 of 2011

Nayan Prava Sarangi

....

Petitioner

*Mr. Niroj Kishore Mohapatra,
Advocate*

-versus-

State of Odisha & others

....

Opp. Parties

Mr. T.K. Praharaj, Standing Counsel

CORAM:

JUSTICE M.S. SAHOO

ORDER

24.02.2022

Order No.

02.

This matter is taken up through hybrid mode.

The matter was never taken up after 03.01.2012, when notices were issued by the learned Tribunal.

The original application was filed by the applicant (petitioner) in the year 2011 seeking modification of Paragraph-5.2 of the Govt. of Orissa, Finance Department Resolution dated 19th January, 2009, the relevant portion of the said paragraph is quoted herein:-

“5(2). Enhanced family pension under Rule-56(4)(a)(i) of O.C.S. (Pension) Rules, 1992 is payable to the family of a Government Servant who dies in service from the date of death of a Government servant for a period of seven years or for the period up to the date on which the deceased Government servant would have attained the age of 65 years, had he survived, whichever is less. Now enhanced family pension shall be payable for a period of ten years without any upper age limit w.e.f. 01.12.2008. The above rule shall stand modified to this extent.”

RJ

It is submitted by the learned counsel for the

petitioner that fixing of cut-off date has resulted difference in payment of family pension as the husband of the petitioner passed away on 08.08.2001 and in view of the cut-off date 01.12.2008, she has been affected adversely inasmuch as the deceased employee was getting pension till 08.08.2008.

Learned Standing Counsel submits that in fixation of cut-off date in a Scheme of pension, scope of judicial review is very limited as per the law laid down by the Hon'ble Supreme Court. It is further submitted that there is no scope for review as any cut-off date would have persons not entitled to the benefit prior to the same and some persons getting the benefit after the cut-off date. It is submitted per se such action does not amount to any kind of discrimination.

Learned counsel for the petitioner submits that the petitioner may be permitted to withdraw the writ petition with liberty to move the appropriate authority for redressal of grievances of the petitioner.

In response the learned Standing Counsel submits that if any representation that would be made, same shall be considered in accordance with law and disposed of in due time.

Having heard learned counsel for the parties, the writ petition is disposed of with the following observations:-

The petitioner, if so advised, shall make a representation before the appropriate authority for redressal of her grievances.

The appropriate authority on receipt of such representation along with all relevant documents sought to be relied upon by the petitioner and certified copy of

this order, shall do well to dispose of the same in accordance with law as expeditiously as possible, preferably within a period of six months from the date of communication of the certified copy of this order along with other documents sought to be relied upon by the petitioner.

It is clarified that this Court has not expressed any opinion regarding merits of the case, in any manner whatsoever.

Issue urgent certified copy as per rules.

