

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.38191 of 2020

Mandakini Tripathy

.....

Petitioner

Mr. D. Mishra, Adv.

Vs.

***Transport Commissioner,
STA, Odisha, Cuttack and
others***

.....

Opposite Parties

Mr. S.K. Samal, AGA

CORAM: JUSTICE SANJAY KUMAR MISHRA

ORDER

12.10.2022

Order

No.

03.

This matter is taken up through hybrid mode.

2. The Petitioner, who is the widow of late Shyam Prasad Tripathy, who was working as weigh man at Girsola Check Gate, Ganjam, on daily wage basis, has approached this Court in form of present Writ Petition praying therein to direct the Opposite Parties to pay the after death benefits of her late husband.

3. Admittedly, the Petitioner had approached the Administrative Tribunal, Cuttack Bench, Cuttack, in O.A. No.2999(C) of 1998 for inaction of the Authority to act on her application for compassionate appointment under the Rehabilitation Assistance Rules, 1990.

4. The O.A. No.2999(C) of 1998 being dismissed on 15.12.1998, the Petitioner approached this Court in OJC No.3014 of 1999, which was disposed of on 25.04.2017 with the following observations:

3. Having heard learned counsel for the parties, we are of the opinion that the order of the Tribunal, which is impugned in this petition, does not call for interference. However, considering the facts of the case, we dispose of the writ

petition with a direction that in case the petitioner files an application for grant of some retrial benefit, the same shall be considered by the employer in accordance with law as expeditiously as possible, preferably within a period of three months from the date of filing of such application.

4. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim of the petitioner, which shall be looked into while considering the application of the petitioner.”

5. Learned Counsel for the Petitioner submits that in pursuance of the said Order dated 25.04.2017 passed by this Court, though the Petitioner gave several representations to the Opposite Parties, but till date no action has been taken on the said representations of the Petitioner despite direction given by this Court in OJC No.3014 of 1999.

6. Learned Counsel for the Petitioner further submits that the Petitioner, being an illiterate lady, has wrongly indicated in the said representations for release of retiral benefits instead of after death benefits of her late husband, including gratuity in terms of the payment of Gratuity Act, 1972, which she is entitled to as her husband had worked for about 13 years under the Opposite Party No.2 before his death.

7. Learned Counsel appearing for the Opposite Party No.2 submits that in view of the Order passed by this Court in OJC No.3014 of 1999, at best the Petitioner can claim for the after death dues, if any, from the concerned Authority under whom her late husband was serving and she has no right to ask for employment on sympathetic ground.

8. In view of the Order passed by this Court in OJC No.3014 of 1999, so also submissions made by the learned Counsels for the

Parties, the Writ Petition stands disposed of directing Opposite Party Nos. 1 and 3 to consider the representations of the Petitioner, as at Annexure-2 Series, and release the after death dues of her late husband Shyam Prasad Tripathy, including Gratuity, if any, in terms of the Payment of Gratuity Act, 1972 within a period of six weeks from the date of communication/production of certified copy of this Order.

9. Original documents filed as Annexure-2 Series be returned to the learned Counsel for the Petitioner on substituting the same by true attested copies of the said documents.

Urgent certified copy of this Order be granted on proper application.

padma

