

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.36678 of 2022

Ritesh Majhi

Petitioner
....
Mr. Rajjeet Roy, Advocate

-versus-

***The Principal Chief Personnel
Officer,
East Coast Railway, Rail Sadan,
Bhubaneswar and others.***

Opp. Parties
....
*Mr. P.K. Parhi, DSGI
along with Mr. B.K. Padhi, CGC
Mr. S.K. Ojha, Advocate for O.P. No.4*

**CORAM:
JUSTICE A.K. MOHAPATRA**

**ORDER
11.12.2023**

Order No.

- 05.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner; Mr. P.K. Parhi, learned DSGI along with Mr. B.K. Padhi, learned CGC, appearing for the Opposite Parties; and Mr. S.K. Ojha, learned counsel appearing for the Opposite Party No.4. Perused the writ petition as well as the documents annexed thereto.
 3. The present writ petition has been filed by the Petitioner with the following prayers:-

“It is, therefore, most respectfully prayed that this Hon’ble Court may graciously be pleased to admit this application and issue rule NISI calling upon the Opp. Parties to show cause as to why a

writ in the nature of mandamus would not be issued to the Opp. Parties to forthwith disburse the legitimate share of the death benefits of the Petitioner's father to him.

And if the Opp. Parties fail to show cause or show insufficient cause, make the said rule absolute by issuing a writ in the nature of mandamus by directing the Opp. Parties to forthwith disburse the legitimate share of the death benefits of the Petitioner's father to him.

And further be pleased to pass any other order/orders, direction/directions as deem fit and proper."

4. It is submitted by learned counsel for the Petitioner that the Petitioner has approached this Court with a prayer for a direction to the Opposite Parties to disburse his share of death benefit claim as is due and admissible to his deceased father.

5. Mr. S.K. Ojha, learned counsel appearing for the Opposite Party No.4, on the other hand, contended that the Opposite Party No.4 is also one of the legal heirs. While explaining the status of the Opposite Party No.4, Mr. Ojha submitted that after the marriage of the Petitioner with his first wife, the father of the Petitioner got married to the Opposite Party No.4. In such view of the matter, learned counsel for the Opposite Party No.4 claimed that the Opposite Party No.4 is the legally married wife and one of the legal heirs of the deceased railway employee, namely, late Rabindra Majhi.

6. Mr. P.K. Parhi, learned D.S.G.I., on the other hand, contended that, as it appears that there exist a dispute with regard to apportionment of the death claim benefits as due and

admissible to the railway employee, namely, Rabindra Majhi. In such view of the matter, learned D.S.G.I. submitted that both the Petitioner as well as Opposite Party No.4 be directed to approach the Opposite Party No.1 who shall consider their status and take a decision with regard to the apportionment of the share in the death claim benefit of late Rabindra Majhi strictly in terms of the rules and regulations followed by the railways.

7. Considering the submissions made by the learned counsels appearing for the respective parties and on a careful examination of the background facts as well as the materials on record, this Court observes that the writ petition has been filed only with a limited prayer for disbursement of the death benefit claim, as is due and admissible to late Rabindra Majhi, Ex-Railway employee, among his legal heirs. It is also appears that there are competing claim between the Petitioner as well as Opposite Party No.4.

8. In such view of the matter, this Court disposes of the writ petition by directing the Opposite Party No.1 to provide an opportunity of hearing to both the Petitioner as well as Opposite Party No.4 and any other surviving legal heirs of late Rabindra Majhi, who has a stake on such death benefit and after hearing all parties concerned, the Opposite Party No.1 shall pass a speaking order in disposing the grievance of the Petitioner as well as Opposite Parties No.4. The Petitioner as well as Opposite Party No.4 are directed to approach the Opposite Party No.1 by filing a detailed representation along with all supporting

documents to substantiate their claim and status. In such event, the Opposite Party No.1 shall do well to dispose of the same within six weeks by passing a speaking order. The decision so taken be communicated to the parties concerned within a week from the date of taking such decision.

9. With the aforesaid observation and direction, the writ petition is disposed of.

(A.K. Mohapatra)
Judge

Debasis



Signature Not Verified

Digitally Signed
Signed by: DEBASIS AECH
Designation: Secretary
Reason: Authentication
Location: OHC, CUTTACK.
Date: 18-Dec-2023 11:27:32

