IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.25058 of 2026
CNR No.ODHC010569242026

Ahalya Naik .... **Petitioner**
Mr. P.K. Mohapatra,
Advocate

-versus-

State of Odisha and Others .... **Opposite Parties**
Mr. C.K. Pradhan, AGA
Mr. S.K. Patra, Adv.
for O.P. No.5

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
05.11.2026

Order No

06. **1.** This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard learned counsel for the parties.

3. The present Writ Petition has been filed *inter alia* with the following prayer:-

> *"It is therefore, humbly prayed that this Hon'ble Court may graciously be pleased to:-*
>
> *i). quash the order dated 11.06.2026 vide Annexure-9, issued by the opp. party No.2 rejecting the petitioner's claim for family pension;*
>
> *ii). declare that the petitioner is entitled to family pension under the Odisha Civil Services (Pension) Rules, 1992 read with the Government Notification dated 11.10.2021:*
>
> *iii). direct the opposite parties to sanction and release family pension in favour of the petitioner together with all consequential benefits within a time to be fixed by this*

Hon'ble Court or in the alternative, direct the opposite parties to accept the option as deemed to have been exercised or permit posthumous exercise of the option in the peculiar facts and circumstances of the case;

iv). Pass such other order (s)/direction(s) as would be deem fit & proper in the bonafide interest of justice."

4. It is contended that deceased-employee continued as a NMR w.e.f. 03.08.1989 and thereafter in the work charged establishment in terms of the communication issued by the Govt. in the Works Department on 06.01.2011 under Annexure-2 and lastly was brought over to the regular establishment vide order dated 27.10.2018 under Annexure-3.

4.1. It is contended that the deceased employee while continuing in the regular establishment on being so brought over vide order dated 27.10.2018, died while in service on 26.12.2021. It is further contended that had the deceased employee not died prematurely, he would have continued till attaining the age of superannuation on 31.05.2028.

4.2. It is contended that the deceased employee though continued as a NMR w.e.f. 03.08.1989 and thereafter in the work charged establishment with effect from the year 2011 and lastly in the regular establishment w.e.f. 27.10.2018 under the Opp. Parties, but he died while in service, present petitioner being the wife of the deceased employee, made a grievance to extend the benefit of pension and other pensionary benefits as due to the deceased employee and so also the Family Pension in her favour.

4.3. This Court vide order dated 30.03.2026 under Annexure-7, when directed for consideration of the petitioner's claim, the same was rejected vide the impugned order dated 11.06.2026, so passed by the Opp. Party No.2 under Annexure-9.

4.4. Learned counsel for the petitioner contended that the issue is no more res-integra in view of the decision rendered by this Court in the case of ***Md. Zamilur Rahaman and Ors. Vs. State of Odisha and Others*** (in W.P.(C) No.37563 of 2023, decided on 20.05.2026). It is also contended that had the deceased employee continued in service since, he would have attained the age of superannuation on 31.05.2028, in normal course also he would have been entitled to get the benefit of pension.

4.5. Making all these submissions, learned counsel for the petitioner contended that with quashing of the impugned order, Opp. Party Nos.1 and 2 be directed to sanction the pension as due and admissible to the deceased employee by following the decision in the case of ***Md. Zamilur Rahaman*** and so also Family Pension in favour of the petitioner.

5. Considering the submission made, this Court passed the following order on 21.09.2026:-

> *"1. This matter is taken up through hybrid mode.*
>
> *2. Heard learned counsel appearing for the Parties.*
>
> *3. It is contended by the learned counsel appearing for the Petitioner that the deceased employee after continuing as a NMR, thereafter in the work charged establishment, was ultimately brought over to the regular establishment vide order dtd.27.10.2018 under Annexure-3. However, while continuing in the said regular establishment, he died on 26.12.2021.*
>
> *4. Petitioner when raised a claim to get the benefit of family pension and approached this Court in W.P.(C) No.6692 of 2026 and this Court vide order dtd.30.03.2026 directed for its consideration, the same has been rejected vide the impugned order dtd.11.06.2026 under Annexure-9.*
>
> *5. Placing reliance on the decision of this Court in the case of MD Zamilur Rahaman & Ors. vs. State of Odisha & Ors. (W.P.(C) No.37563 of 2025) disposed of on 20.05.2026,*

learned counsel appearing for the Petitioner contended that the ground on which Petitioner's claim has been rejected is not sustainable in view of the aforesaid decision.

6. Learned Addl. Govt. Advocate is directed to obtain instruction as to whether Petitioner's claim is covered by the Judgment in the case of Zamilur Rahamon so cited (supra).

7. As requested, list this matter in the week commencing l2th October, 2026."

6. On the face of such order passed on 21.09.2026 and further order passed on 13.10.2026 and 28.10.2026, no instruction has yet been obtained. However, learned Addl. Govt. Advocate contended that since the deceased employee was only regularised vide order dated 27.10.2018 and while so continuing, he died on 26.12.2021, he had not rendered the required years of service in the regular establishment, making him eligible and entitled to get the benefit of pension and other pensionary benefits under OCS(Pension) Rules, 1992.

6.1. It is accordingly contended that neither the deceased employee is eligible and entitled to get the benefit of pension and other pensionary benefits, nor the petitioner is entitled to get the benefit of Family Pension.

7. Having heard learned counsel for the parties and considering the submission made, it is found that the deceased employee was engaged as a NMR, where he joined on 03.08.1989. While so continuing, he was brought over to the work charged establishment in the year 2011 and lastly in the regular establishment vide order dated 27.10.2018 under Annexure-3, wherein name of the petitioner finds place at Sl. No.2. However, while so continuing in the regular establishment, the deceased employee died on 26.12.2021.

7.1. It is also found that the date of birth of the deceased employee being 06.05.1968, in normal course, he would have attained the age of superannuation on 31.05.2028. Since the deceased employee continued as a NMR w.e.f. 03.08.1989 and thereafter in the work charged establishment with effect from the year 2011 and in the regular establishment w.e.f. 27.10.2018 till he died prematurely on 26.12.2021, placing reliance on the decision of this Court in the case of ***Md. Zamilur Rahaman*** so cited (supra), this Court is of the view that the ground on which petitioner's claim has been rejected, is not sustainable in the eye of law and in view of the decision the deceased employee is eligible and entitled to get the benefit of pension under OCS(Pension) Rules, 1992.

7.2. Accordingly, while quashing the said order, this Court directs Opp. Party Nos.1 and 2 to extend the benefit of Family Pension in favour of the petitioner so also the pension and other pensionary benefits as due and admissible to the deceased employee under OCS(Pension) Rules, 1992. This Court directs Opp. Party Nos.1 and 2 to complete the entire exercise within a period of 4(four) months from the date of receipt of this order.

8. The Writ Petition stands disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Basudev

Signature Not Verified
Digitally Signed
Signed by: BASUDEV SWAIN
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 09-Nov-2026 10:37:46