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Location: ORISSA HIGH COURT, CUTTACK
Date: 18-May-2026 18:30:08

IN THE HIGH COURT OF ORISSA AT CUTTACK

A.F.R.

W.P.(C) No.20888 of 2025

(In the matter of an application under Articles 226 and 227of the Constitution of India, 1950).

State of Odisha &Anr. .... ***Petitioner(s)***

-versus-

Minati Das .... ***Opposite Party (s)***

Advocates appeared in the case through Hybrid Mode**:**

For Petitioner(s)	:	*Mr. Sonak Mishra, Addl. Standing Counsel*
		Ms. Sarita Moharana, Addl. Standing Counsel
For Opposite Party (s)	:	*Mr. Karunakar Rath, Adv.*

CORAM:
DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING: -23.02.2026
DATE OF JUDGMENT: - 17.04.2026

Dr. Sanjeeb K Panigrahi, J.

1. The present Writ Petition has been filed by the State of Odisha, represented through the Commissioner-cum-Secretary to Government, Health & Family Welfare Department, and its functionary, assailing the order dated 29.11.2024 passed by the Odisha Human Rights Commission (in short, "OHRC") in OHRC Case No.179 of 2024.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:

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(i) Anjan Kumar Das, husband of the Opposite Party, is the elder son of Dr. Anil Kumar Das, who retired from the post of Asst. Surgeon while serving in Mayurbhanj District from 30.09.1987 and was drawing pension bearing PPO No.68970.

(ii) Dr. Anil Kumar Das, who is the father-in-law of the Opposite Party, expired on 16.05.2019. Prior to that, the mother-in-law of the Opposite Party, late Smt. Gita Das, had expired on 11.10.1991.

(iii) The Opposite Party claimed that after the death of Dr. Anil Kumar Das, she and her husband were facing financial hardship. She further claimed that Anjan Kumar Das has been suffering from mental illness since 1996, due to which, he is unable to earn livelihood. She further stated that she is a house-wife with no independent source of income to maintain her family consisting of herself, her husband and their son.

(iv) The Opposite Party contended that after the death of her father-in-law, her disabled husband Anjan Kumar Das, aged about 54 years, is eligible to receive family pension for life under Rule 56 of the OCS (Pension Rules), 1992 (in short, "1992 Rules").

(v) Accordingly, Anjan Kumar Das applied for grant of family pension vide application dated 15.05.2023 with supportive required documents, which were transmitted to the Accountant General (A & E), Odisha for consideration through the office of CDM & PHO, Mayurbhanj vide letter dated 27.07.2023.

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(vi) The Accountant General (A & E), Odisha, vide letter dated 18.09.2023, rejected the proposal with the observation that "disabled family pension is applicable if manifestation of such disorder or disability occurred during the life time of the Government servant/pensioner". In the instant case, the disability certificates were issued in favour of Sri Anjan Kumar Das on 18.04.2023 and 08.06.2023, i.e., after the death of Government servant/pensioner on 16.05.2019. The same may be reviewed and, if found eligible, may be submitted through proper channel."

(vii) Thereafter, the proposal was forwarded through the DHS, Odisha, Bhubaneswar and submitted to the Finance Department, Government of Odisha for their views.

(viii) The Finance Department vide order dated 18.12.2023, after examination observed as follows:

(a) The family pension for disabled son should have the entry disabled son in the declaration family by the pensioner: The family pension in such cases is defined in the proviso to Rule 56(5).

(b) In case disability is not manifested initially, the same should be intimated to the PSA as per the procedure laid down in the Explanation to Rule 56(5)(c).

(c) Further, "child" as defined under Rule 2(1)(b)(i) of the 1992 Rules in the case of a son, until he starts earning his livelihood or attains the age of 25 years, whichever is earlier.

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(d) In the instant case, neither the manifestation of disability has occurred in the petitioner Sri Anjan Kumar Das as per the provisions laid down under Rule (2)(1)(b) nor has the fact of manifestation of disability in the child been reported by the pensioner to the Head of Office with supportive medical certificate as required under Rule 56(5) of the 1992 Rules.

(e) Hence, the representation of Smt. Minati Das, wife of the claimant son Sri Anjan Kumar Das does not merit any consideration as per the provisions laid down under Rule 2(1)(b) read with Rule 56(5) of the 1992 Rules. A/D are advised to dispose the grievance petition accordingly.

(ix) The Deputy Secretary to Government in the Health & Family Welfare Department communicated the above views to the DHS, Odisha, vide Govt. Letter No.31768/ H&FW dated 22.12.2023, stating that the claim for family pension does not merit consideration under the relevant provisions of the 1992 Rules, and, accordingly, the grievance petition was disposed of.

(x) Thereafter, the Opposite Party approached the Human Rights Commission on 10.01.2024, seeking a direction for granting of family pension in favour of her husband Sri Anjan Kumar Das, claiming that he is a mentally disabled son of late Dr. Anil Kumar Das.

(xi) On 30.01.2024, the OHRC issued notice along with a copy of the complaint petition to Petitioner No.1, Petitioner No.2 and the

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Secretary, Finance Department, directing them to submit their respective reports.

(xii) On 18.04.2024, the Addl. Secretary to Govt. in the Health & Family Welfare Department submitted report before the OHRC.

(xiii) Thereafter, the OHRC, in exercise of powers conferred under Section 18 of the Protection of the Human Rights Act, 1993 disposed of OHRC Case No.179 of 2024 on 29.11.2024, making certain observations and recommendations which are contrary to law and violative of the principles of natural justice. Hence, the present Writ Petition.

II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

3. Learned counsel for the Petitioners-State earnestly made the following submissions in support of their contentions:

(i) Family pension is a creature of statue and can only be granted strictly in accordance with the 1992 Rules.

(ii) In the present case, the alleged disability of Sri Anjan Kumar Das was never reported during the lifetime of the pensioner, nor recorded in service or pension records as required under Rule 56(5)(c).

(iii) The disability certificates relied upon were issued after the death of the pensioner, i.e. the pensioner died on 16.05.2019, whereas the disability certificates were issued on 18.04.2023 and 08.06.2023.

(iv) Under Rule 2(1)(b), a son ceases to be a "child" after attaining the age of 25 years, unless covered by the disability proviso.

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(v) Since the statutory requirement of reporting and recording disability during the lifetime of the pensioner has not been fulfilled, the Opposite Party cannot claim the benefit of lifelong family pension.

(vi) The Finance Departmenthas categorically clarified that the benefit of family pension to a disabled child is admissible only when the manifestation of such disability occurred during the lifetime of the Government servant/pensioner.

(vii) The said clarification has statutory force and has been completely ignored by the OHRC while passing the impugned order, and without giving an opportunity of hearing and without considering the authority submission passed the impugned order.

(viii) The impugned order has been passed without granting reasonable opportunity of hearing to the Petitioners. Any order having civil consequences passed without hearing the affected party is unsustainable in law.

(ix) The OHRC may issue recommendations, but it cannot direct grant of monetary benefits contrary to statutory rules.

(x) The impugned direction amounts to usurpation of powers vested exclusively in statutory authorities under pension law.

(xi) Though, the pensioner is a Government servant, the Opposite Party had alternative remedy available under law.

(xii) Accordingly, the impugned order dated 29.11.2024 passed by the OHRCin OHRC Case No.179 of 2024 is contrary to Rule 2(1)(b) and

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Rule 56(5) of 1992 Rules, passed without jurisdiction and in violation of principles of natural justice and therefore deserves to be set aside.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY:

4. The Learned Counsel for the Opposite Party earnestly made the following submissions in support of his contentions:

(i) The State has challenged the impugned order before this Court on the ground, *inter alia*, that the disability of Anjan Kumar Das was not disclosed during the lifetime of Dr. Anil Kumar Das.

(ii) It was submitted that Dr. Anil Kumar Das, who served as a Surgeon under C.D.M. & P.H.O., Mayurbhanj, Baripada, retired on 30.09.1987 and continued to receive pension till his death on 16.05.2019.

(iii) Although the disability certificates were issued on 18.04.2023 and 08.06.2023 respectively, the claimant had been undergoing treatment since 1966, as evidenced by medical treatment prescriptions dated 25.03.1996 vide No- 54530 issued by the Central Institute of Psychiatry, Ranchi.

(iv) Further, as per the Letter No.9259 dated 01.12.2023 issued by the CDM and PHO, Mayurbhanj, Baripada addressed to Additional Secretary to Govt. of Odisha, Health and Family Welfare Department, Bhubaneswar, the personal file was not traceable in the office of the CDM and PHO, Mayurbhanj, Baripada despite thorough search, indicating administrative lapse on the part of the authorities.

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(v) The law has been settled by the Supreme Court in the case of ***Bhagwanti Mantani v. Union of India***[1] and Division Bench of this Court in the case of ***Pradipta Kumar Pattanaik v. State of Odisha & Ors.***[2], wherein it has been decided that the disabled son/children of a pensioner are entitled to the family pension after submission of the disability certificate before the Pension Sanctioning Authority under the provision laid down in Rule 56 (5) (c) proviso under 1992 Rules. So, the case of the Opposite Party is squarely covered both under Rule 56 (5) of 1992 Rules and under settled principle of law decided by the Apex Court.

(vi) Hence, the Opposite Party is entitled to family pension with arrears and interest from the date of death of his father late Dr. Anil Kumar Das on 16.05.2019.

(vii) Accordingly, the Writ Petition is liable to be dismissed.

IV. FINDINGS OF THE IMPUGNED ORDER OF THE OHRC:

5. While passing the impugned order dated 29.11.2024, the OHRC observed that since the desired documents had already been submitted before the competent authority, there was no impediment for processing the claim and sanctioning family pension in respect of Sri Anjan Kumar Das, a person with disability.

6. The Commission further observed that since the matter concerns a person with disability, the authorities such as the CDM & PHO and

[1] 1995 Supp (1) SCC 145
[2] W.P.(C) No.2879 of 2023 decided on 19.05.2023

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the Directorate level should take appropriate steps to expedite the matter.

7. The Commissioner further recommended that family pension be sanctioned and disbursed in favour of Sri Anjan Kumar Das. Arrear pension be paid with effect from 16.05.2019, i.e., the date of death of Dr. Anil Kumar Das. The entire exercise be completed within a period of four months from the date of communication of the order.

8. With the aforesaid observations and recommendations, the OHRC Case No.179 of 2024 was disposed of.

V. COURT'S REASONING AND ANALYSIS:

9. Heard learned counsel for the parties and perused the materials placed on record. At the very core of the present writ petition lies a question of considerable legal significance, namely, the contours and limits of jurisdiction of the Odisha Human Rights Commission when it is confronted with claims that are squarely governed by statutory service rules. The issue is not merely factual but institutional, engaging the delicate boundary between recommendatory oversight and statutory adjudication.

10. The controversy, though presented against a backdrop of compassion for a person with disability, cannot be resolved on sympathetic considerations alone. It raises a deeper jurisprudential tension between equitable impulses and statutory discipline. The case, in essence, calls upon this Court to reconcile the humane objective of alleviating hardship with the imperative of adhering to

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a rule-bound legal framework. It is this interplay between statutory mandate and equitable considerations that forms the fulcrum of adjudication in the present matter, and it is within this structured legal prism that the claims must ultimately be examined.

11. The claim for family pension, it must be stated at the outset, is not an abstract entitlement flowing from notions of fairness or sympathy, it is a statutory right circumscribed by the provisions of the Odisha Civil Services (Pension) Rules, 1992. The jurisprudential position is well settled that pension and its allied benefits are creatures of statute and must be granted strictly in accordance with the governing rules. Any deviation, however well-intentioned, would amount to judicial or quasi-judicial overreach.

12. In the present case, the statutory scheme under Rule 56(5) read with Rule 2(1)(b) of the 1992 Rules clearly postulates that in order to claim family pension as a disabled son, two essential conditions must be satisfied that is (1) the manifestation of disability must occur during the lifetime of the pensioner; and (2) such disability must be duly recorded or intimated to the competent authority in accordance with the prescribed procedure. These conditions are not procedural niceties but substantive requirements that go to the root of eligibility.

13. The admitted factual position, however, reveals that the disability certificates in favour of the claimant were issued only in the year 2023, long after the death of the pensioner in 2019. There is no

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material on record to demonstrate that the alleged disability was either declared, recorded, or brought to the notice of the competent authority during the lifetime of the pensioner. The statutory requirements, therefore, remain unfulfilled.

14. The contention advanced on behalf of the Opposite Party, that the disability existed since long and that the subsequent issuance of a certificate ought not to defeat the claim which may, at first blush, carry a certain humanitarian appeal. However, such considerations, however compelling, cannot be permitted to override the clear and unambiguous mandate of the statutory rules. Law, while not devoid of compassion, cannot be stretched to a point where its structural discipline is compromised or its normative boundaries are diluted.

15. The requirement of contemporaneous recording or declaration of disability during the lifetime of the pensioner is not a mere procedural formality but it is a substantive safeguard embedded within the statutory framework. It serves a dual purpose that is, first, as an evidentiary assurance that the claim is genuine and not an afterthought, and the second, as an administrative mechanism to ensure certainty, transparency, and orderly disbursement of public funds. To permit post facto certification to substitute such a requirement would open the floodgates to unverifiable claims, thereby undermining fiscal discipline and eroding the integrity of the public exchequer.

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16. In that sense, the rule is not an inflexible technicality but a necessary condition that preserves the balance between individual entitlement and institutional accountability. Courts cannot, under the impulse of equity, dispense with such a requirement without effectively rewriting the statute which is an exercise that lies beyond the permissible limits of judicial or quasi-judicial interpretation. Equally important is the delineation of the role and jurisdiction of the Human Rights Commission under the Protection of Human Rights Act, 1993. The statutory scheme unmistakably confines the Commission to a recommendatory domain and it is empowered to inquire into alleged violations of human rights and to suggest appropriate remedial or corrective measures. Its function is advisory and facilitative, not adjudicatory in the strict sense of conferring enforceable rights in derogation of existing statutory frameworks.

17. The Commission, therefore, cannot transgress into the domain reserved for statutory authorities by issuing directions that effectively create or enforce monetary entitlements contrary to governing rules. In the present case, the direction to grant family pension along with arrears from a retrospective date is not merely a recommendation but assumes the character of a binding mandate, thereby encroaching upon a field regulated exclusively by the Odisha Civil Services (Pension) Rules. Such an exercise amounts to a jurisdictional overreach.

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18. It is a settled principle that when a statute circumscribes the extent of power any action beyond those limits is rendered ultra vires. The Commission cannot, under the guise of advancing human rights, override express statutory provisions or rewrite eligibility conditions. To permit such an approach would not only disturb the legislative scheme but also blur the institutional boundaries between recommendatory bodies and statutory authorities vested with decision-making power.

19. Further, the impugned order is vitiated by a fundamental procedural infirmity, inasmuch as it appears to have been rendered without affording an effective and meaningful opportunity of hearing to the State authorities. It is trite law that any decision which entails civil consequences must adhere to the principles of natural justice, particularly the doctrine of *audi alteram partem*, which constitutes the bedrock of fair adjudication. The right to be heard is not an empty formality but a substantive safeguard ensuring that the decision-making process is informed, balanced, and just.

20. An order passed in breach of such foundational procedural guarantees cannot be sustained merely on the strength of its outcome. The vice lies not only in the decision but in the process by which it is arrived at. Denial of reasonable opportunity strikes at the root of jurisdiction and renders the entire proceeding vulnerable to invalidation. It is well settled that even a seemingly just conclusion cannot be upheld if it is arrived at through a procedurally flawed

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process. In the present case, the absence of due hearing has resulted in a clear infraction of natural justice, thereby vitiating the impugned order in its entirety.

21. The reasoning adopted by the Commission, though ostensibly guided by equitable considerations, betrays a clear misappreciation of the governing legal framework. It proceeds on the erroneous premise that the subsequent submission of documents can cure a foundational statutory defect which is an assumption that is plainly untenable in law. Compliance with statutory conditions, particularly those which go to the root of eligibility, cannot be retrospectively validated by post facto documentation.

22. It is a settled principle that where the statute prescribes the manner and conditions for conferment of a benefit, the same must be adhered to in letter and spirit. Any departure therefrom would not merely be an irregularity but a substantive illegality. Equity, in such circumstances, cannot be invoked as a panacea to override clear statutory prescriptions. Its role is inherently supplementary and operating within the interstices of the law but never in derogation of it. To hold otherwise would be to permit equitable considerations to eclipse legislative intent, thereby undermining the certainty and discipline that statutory frameworks are designed to uphold.

23. At a broader jurisprudential plane, the present case underscores the delicate equilibrium that courts are expected to maintain between compassion and legality. The facts may evoke a sense of sympathy,

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particularly where claims arise from personal hardship or disability, yet, adjudication cannot be allowed to drift into the realm of sentiment. Courts do not decide cases on the basis of emotive appeal but on the touchstone of law, evidence, and statutory discipline. Compassion, howsoever compelling, cannot be permitted to supplant clear legal mandates. Yielding to sympathy at the cost of statutory fidelity would be to unsettle the very architecture of rule of law. It would open the gates to subjective adjudication, where outcomes shall vary not by principle but by perception and emotion. Such an approach would erode consistency, invite arbitrariness, and dilute the predictability that is the lifeblood of legal systems. The discipline of law lies precisely in its ability to channel human concerns through structured norms, ensuring that justice is not only done, but done in accordance with known and established principles.

VI. CONCLUSION:

24. In view of the foregoing analysis, this Court holds that the impugned order dated 29.11.2024 passed by the Odisha Human Rights Commission is unsustainable in law. The Commission has exceeded its jurisdiction by issuing directions contrary to the statutory provisions governing family pension and has failed to adhere to the principles of natural justice.

25. The essential conditions prescribed under Rule 2(1)(b) and Rule 56(5) of the Odisha Civil Services (Pension) Rules, 1992 having not been

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satisfied, the claim for family pension cannot be sustained in law. The recommendations of the Commission, therefore, cannot be enforced.

26. Accordingly, the Writ Petition is **allowed**, and the impugned order of the Odisha Human Rights Commission is hereby set aside. It is, however, observed that this order shall not preclude the Opposite Party from seeking any other remedy available in law, if so advised.

27. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 17th April, 2026/