



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.30284 of 2025

**Jharana @ Binodini Kalet
and Another**

....

Petitioners

Mr. B.B. Routray, Advocate

-versus-

***State of Odisha and
Others***

....

Opposite Parties

Mr. S. Das, ASC

Mr. S.K. Patra, Advocate for O.P. No.2

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

09.12.2025

Order No.

- 03.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard learned counsel for the parties. Instruction provided by the office of Accountant General vide letter dated 28.11.2025 so produced by the learned counsel in Court be kept in record.
3. The present Writ Petition has been filed by the married daughters of the deceased employee with a prayer to disburse the gratuity amount as due and admissible in their favour. Since the same was not released, the present Writ Petition has been filed



seeking a direction on the Opp. Parties to pay the same.

4. Basing on the instruction, learned counsel appearing for the Opp. Party No.2, contended that as provided under Rule-50 of the OCS(Pension) Rules, 1992 (in short Rules), the modalities has been prescribed as to whom the gratuity amount is payable on the death of the deceased employee. Rule-50 of the Rules reads as follows:-

“50. Persons to whom gratuity is payable-

(1) (a) The gratuity payable under rule 49 shall be paid to the person or persons on whom the right to receive the gratuity has been conferred in the nomination made under rule 53.

(b) If there is no such nomination or if the nomination made is lost/not traceable, the gratuity shall be paid in the manner indicated below:-

(i) If there are one or more surviving members of the family as in clauses (i), (ii), (iii) and (iv) of sub-rule (6) of rule 49 to all such members in equal shares.

(ii) If there are no such surviving members of the family as indicated in sub-clause (i) above, but there are one or more members as in clauses (v), (vi), (vii), (viii), (ix), (x), (xi) and (xii) of sub-rule (6) of rule 49 to all such members in equal shares.

(2) If a Government servant dies after retirement without receiving the gratuity admissible under sub-rule (1) of rule 49, the gratuity shall be disbursed to the family in the manner indicated in sub-rule (1).

(3) The right of a female member of the family, or that of a brother, of a Government servant who die while in service or after retirement, to receive the share of gratuity shall not be affected if the female member is married or re-marries, or the brother attains the age of eighteen years as the case may be after the death of the Government servant and before receiving her or his share of the gratuity.



(4) Where gratuity is granted under rule 49 in favour of a minor member of the family of the deceased Government servant, it shall be payable to the guardian on behalf of the minor.”

4.1. It is contended that in terms of the provisions contained under Rule-50(1)(b)(i) of the Rules, gratuity amount is payable to the surviving members of the family as provided under clauses (i), (ii), (iii) and (iv) of sub-rule (6) of rule 49 in equal shares.

4.2. It is further contended that if there is no such surviving members of the family as indicated in sub-clause (i), then only the claim of other legal heirs will come into play. Since in the present case, it is not disputed that the wife of the deceased is there, in view of the provisions contained under Rule-50(1)(b)(i) and (ii) of the Rules, the married daughters are not eligible to get the benefit. It is accordingly contended that the petitioners are not eligible to get the benefit as prayed for. Rule-49(6) of the Rules reads as follows:-

“49.(6) For the purpose of this rule and rules 50, 52 and 53, "family" in relation to a Government servant means-

- (i) wife or wives (including judicially separated wife or wives) in the case of a male Government servant,
- (ii) husband (including judicially separated husband), in the case of a female Government servant,
- (iii) sons including step sons and adopted sons,
- (iv) unmarried daughters including step daughters and adopted daughters,



- (v) widowed / divorced / disabled widowed / disabled divorced daughters including step daughters and adopted daughters (Added vide Finance Department Notification No.32745/F., dtd.23.07.2011)
- (vi) father
- (vii) mother
- (viii) brothers below the age of eighteen years including step brothers,
- (ix) unmarried sisters and widowed sisters including step sisters,
- (x) married daughters,
- (xi) children of a pre-deceased son, and
- (xii) children born out of void wed lock.”

5. Similar contention was also raised by the learned Addl. Standing Counsel.

6. Having heard learned counsel for the parties, considering the submissions made and after going through the provisions contained under Rule-50 vis-à-vis Rule-49(6) of the OCS(Pension) Rules, 1992, it is the view of this Court that since the wife of the deceased is alive, petitioners being the married daughters of the deceased employee, are not eligible and entitled to get the benefit of gratuity as due to the deceased employee.

7. The Writ Petition stands dismissed accordingly.

(Biraja Prasanna Satapathy)
Judge