



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.13431 of 2024

Sumitra Panda

....

Petitioner

Mr. P.K. Rath, Sr.
Advocate with Mr. A.
Behera, Advocate

-versus-

**State of Odisha and
Others**

....

Opp. Parties

Mr. S.P. Das, ASC
Mr. S. Das, Advocate for
O.P. No.2 and 3

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

**Order
No**

**ORDER
13.03.2026**

- 04.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard learned counsel appearing for the parties.
3. The present Writ Petition has been filed inter alia challenging rejection of the petitioner's claim to get the benefit of Family Pension vide the impugned order dated 26.12.2023 so issued under Annexure-1. Vide the said order, claim of the petitioner to get the benefit of Family Pension on the death of her husband on 30.10.2019, was rejected on the ground that unless and until petitioner submits a fresh legal heir certificate of the deceased



employee, it is not possible to finalize the claim of the petitioner to get the benefit of Family Pension.

4. While assailing the impugned order, learned Senior Counsel appearing for the petitioner contended that the deceased employee after death of his 1st wife on 07.07.1999, so reflected under Annexure-5, got married to the present petitioner on 07.03.2003, so reflected in the Marriage Certificate issued under Annexure-4, by the Marriage Officer, Bhubaneswar.

4.1. It is contended that even though the deceased employee had retired prior to such marriage with the petitioner on 30.09.1997, but taking into account the marriage solemnized in between the deceased employee and present petitioner on 07.03.2003, name of the petitioner was reflected as the wife of the deceased employee in the Pension Payment Order so available under Annexure-3.

4.2. Not only that vide order dated 07.02.2006 so available under Annexure-9, the University while accepting the petitioner as the wife of the deceased employee passed the following order:-

“In the event of death of the Pensioner the family pension @ Rs.668/- (Rupees Six hundred sixty eight) only per month plus T.I. and I.R. is payable to Smt. Sumitra Panda wife of the Pensioner from the date following the date of death of the pensioner till the date of her re-marriage or death whichever is earlier as admissible under rules.”



4.3. It is contended that on the face of such acceptance of the status of the petitioner as the wife of the deceased employee so reflected in Annexure-3 and 9, the deceased employee when died on 13.11.2019 as available under Annexure-6, petitioner being the legal married wife of the deceased employee, raised her claim to get the benefit of Family Pension. But the same has been rejected inter alia on the ground that unless and until petitioner provides a fresh legal heir certificate from the office of Tahasildar, Bhubaneswar, such benefit cannot be extended.

4.4. Placing reliance on the Finance Department Circular issued on 24.02.2023 under Annexure-2, learned Senior Counsel appearing for the petitioner contended that since petitioner which is not disputed, is the wife of the deceased employee, there is no bar for extension of the benefit of Family Pension in terms of the provision contained under Rule-56 of the OCS(Pension) Rules, 1992 read with Rule-80 of the said Rule.

4.5. It is accordingly contended that since it is not disputed by the University that petitioner is the wife of the deceased employee and the same was reflected not only in the Pension Payment Order under Annexure-3, but also in the order passed by the Registrar of the University under Annexure-9, the ground on which petitioner's claim to get the benefit of Family Pension has been rejected, is not sustainable in the eye of law.



4.6. It is accordingly contended that with quashing of the impugned order, appropriate direction be issued to the University to extend the benefit of Family Pension in favour of the petitioner from the date of her entitlement along with all the arrears.

5. Mr. S. Das, learned counsel appearing for the University on the other hand made his submission basing on the stand taken in the counter affidavit so filed by Opp. Party Nos.2 and 3. Relying on a circular issued by the Finance Department on 01.02.1992 under Annexure-I/2, learned counsel appearing for the University contended that in view of the stipulation so contained in the said office memorandum, claim of the petitioner was not allowed while rejecting the same vide the impugned order under Annexure-1. Office Memorandum dated 01.02.1992 reads as follows:-

“Pension Sanctioning Authorities are sometimes handicapped in finalising Family Pension and Death Gratuity cases for want of proper identification of legal heirs of the deceased pensioner. To facilitate payment of life time pension to legal heirs of the deceased pensioners. Finance Department in their letter No 24073 (113), dated the 6th June 1984 clarified to the Treasury and Sub-Treasury Officers and Accountant-General, Orissa that the legal heir certificates are to be obtained by De payee on their personal effort from the local Tahasildars/Additional Tahasildars. Despite these Instruments, the concerned payees do not obtain, for various reasons, the required certificates and produce them before the Pension Sanctioning Authorities in time. As a result, such cases of delay in payment of Family Pension and Death Gratuity are being frequently referred to the Pension Adalat for devising appropriate remedial measures.

2. To expedite disposal of cares indicated in the preceding Para Government after careful consideration have been pleased to decide that the concerned payee should be



reminded by the Pension Sanctioning Authority thrice through registered A.D. letter in course of three consecutive months to procure and produce the legal heir certificate for release of Family Pension and Death Gratuity failing which such cases are to be treated as closed on the advice of Pension Sanctioning Authority. Reopening of such cases will however arise only when the legal heir certificates are received by the Pension Sanctioning Authorities and they are satisfied that non-submission of the required certificate in time was beyond the control of the applicant.”

5.1. Reliance was also placed to the provision contained under Rule-56(6)(a)(i) of the Rules and the proviso to the said Rules. Rule-56(6)(a)(i) of the Rules reads as follows:-

“Where the family pension is payable to more than one widow the family pension shall be paid to widows in equal shares.

Provided that if the widow is not survived by any child, her share of the family pension shall not cease but shall be payable to the other widows in equal shares, or if there is only one such other widow, in full, to her.”

5.2. Making all these submissions, learned counsel appearing for the University, contended that in view of the office Memorandum issued under Annexure-I/2 and the provision contained under Rule-56(6)(a)(i) of the Rules and the proviso thereto, petitioner is not eligible and entitled to get the benefit, unless she produces the legal heir certificate from the concerned authority.

It is also contended that the deceased employee had got two children from out of his marriage with the 1st wife.

6. Having heard learned counsel for the parties and considering the submission made, this Court finds that petitioner on the death of the 1st wife of the deceased employee on 07.07.1997, so reflected in Annexure-5 got



married to the deceased employee on 07.03.2003. Certificate in support of such marriage was issued by the Marriage Officer, Khurda under Annexure-4.

6.1. Even though by the time petitioner got married to the deceased employee on 07.03.2003, the deceased employee had already retired on 30.09.1997, but taking into account such marriage of the petitioner with the deceased employee, in the Pension Payment Order issued under Annexure-3, name of the petitioner was indicated as the wife of the deceased employee and making her entitled to get the benefit of Family Pension.

6.2. It is also found from office order dated 07.02.2006 of the Vice-Chancellor of the University that while admitting the status of the petitioner as the wife of the deceased employee, the order was passed that, in the event of death of the pensioner, Family Pension will be payable to the present petitioner till the death of the pensioner or till her re-marriage, whichever is earlier.

6.3. However, it is found that on the face of such status being admitted by the University as the wife of the deceased employee, claim of the petitioner to get the benefit of Family Pension on the death of the deceased employee on 30.10.2019 was rejected vide the impugned communication dated 26.12.2023 under Annexure-1 and on the ground that since there are 2 (two) other legal heirs of the deceased employee, unless and until petitioner



produce a fresh legal heir certificate from the Tahasildar, Bhubaneswar, petitioner's claim cannot be considered.

6.4. As found from the impugned order, other 2 legal heirs are the son and daughter, born through the 1st wife of the deceased employee. Since it is not disputed that petitioner got married to the deceased employee on 07.03.2003 after the death of the 1st wife on 07.07.1999, and the said marriage is a valid marriage under the Hindu Marriage Act/Special Marriage Act and status of the petitioner as the wife of the deceased employee has been admitted by the University under Annexure-3 and 6, it is the view of this Court that the ground on which petitioner's claim was not considered vide the impugned order dated 26.12.2023, is not sustainable in the eye of law.

6.5. It is also the view of this Court that provisions contained under Rule-56(6)(a)(i) of the Rules and the proviso thereto, is not applicable to the facts of the present case, as there is no 2nd widow, who is claiming benefit of Family Pension.

6.6. In view of the clear admission with regard to the status of the petitioner so admitted by the University time and again, it is the view of this Court that office memorandum issued by the Finance Department under Annexure-I/2, is not applicable to the facts of the present case.



6.7. In view of the aforesaid analysis, this Court is inclined to quash order dated 26.12.2023 so passed by Opp. Party No.3 under Annexure-1. While quashing the impugned order dated 26.12.2023, this Court directs the University to release the Family Pension as due and admissible in favour of the petitioner from the date of her entitlement within a period of 4 (four) weeks from the date of receipt of this order. Arrear entitlement be also released within the aforesaid time period. Opp. Party No.2 and 3 are directed to act upon this order on production of the certified copy of the order.

7. The Writ Petition stands disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Basudev