

(2000) 09 SC CK 0066
In the Supreme Court Of India
Case No : Civil 5514 of 1999

State of Orissa and Another

APPELLANT

Vs

Prativa Ghosh and Another

RESPONDENT

Date of Decision : 13-09-2000

Acts Referred:

Citation : (2000) 87 FLR 730 : (2001) 1 LLJ 604 : (2001) 10 SCC 587

Hon'ble Judges : U. C. Banerjee, J;G. B. Pattanaik, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

G.B. Pattanaik, J.—This appeal by the State of Orissa is directed against the order of the Orissa Administrative Tribunal granting arrear pension of the deceased husband and also family pension to the wife. It appears that the husband was a Head Master of taken over school and had opted for contributory provident fund scheme and on his retirement, got the retiral benefits. But a subsequent notification of the State Government enabled the husband to switch over to the family pension. By that time, husband had already died. The wife, therefore, filed the application before the Tribunal and the Tribunal has directed for grant of arrear pension as well as family pension to the wife. Once the husband has retired with the contributory provident fund scheme in force, and having got the retrial benefits, ordinarily would not be entitled to claim pension or family pension, unless the subsequent notification gives such option, and option is exercised. But, unfortunately, by the time subsequent notification was issued, the husband had already died. Therefore, the direction of the Tribunal to pay the arrear pension of the deceased-husband does not appear to be in accordance with law, and we accordingly set aside that part of the order. But since the Tribunal has granted family pension in favour of the wife, we are not inclined to interfere with the said part of the order of the Tribunal, but we make it clear that the family pension would be payable to the wife with effect from the date of the order dated February 24, 1997 and not from any earlier point of time.

2. The appeal is disposed of accordingly.