
(2008) 11 OHC CK 0007
In the Orissa High Court
Case No : Writ Petition (C) No. 9164 of 2005

Subasini Nayak

APPELLANT

Vs

Director General, Central Reserve Police Force and Others

RESPONDENT

Date of Decision : 03-11-2008

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 38

Citation : (2008) CLT 138 Supp

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : Bharati Dash, for the Respondent

Final Decision : Dismissed

Judgement

A.S. Naidu, J.—Petitioner is the widow of late Rajkishore Nayak, an erstwhile employee of Central Reserve Police Force. Rajkishore was disengaged from the said Force with effect from 26th December, 1992 on the ground of invalidation. He had put in service for 5 years 8 months 26 days. After his disengagement he died on 2-3-1998. The Petitioner thereafter filed an application for grant of family pension. No steps in that regard having been taken, she had earlier approached this Court in W.P (C) No. 216 of 2005. The said Writ Petition was disposed of on 14-3-2005 directing the Opposite Party-authorities to consider the case of the Petitioner.

2. The authorities after considering the case of the Petitioner intimated that her deceased husband having put in only 5 years 8 months 26 days of qualifying service he was eligible to receive only service gratuity and retirement gratuity, and no invalidation pension. Being aggrieved by such intimation she has approached this Court again.

3. After receiving notice of the Writ Petition, the Opposite Parties entered appearance and filed their counter affidavit taking the stand that minimum ten years" completed service was required for sanction of invalid pension. In support

of such stand, Mrs. Bbarati Das, Learned Counsel appearing for the Opposite Parties, relied on Standing Order No. 51 of 2001 issued by the Directorate General, PAO, CRPF, New Delhi with regard to pension and timely payment of pensionary benefits. The said Standing Order stipulates that CRPF is governed by the Civil Services (Pension Rules), 1972 and provides that the entitlement of retired employees to different types of pension. Clause 2(c) of that Standing Order reads as follows:

INVALID PENSION - As per Rule 38 of CCS (Pension) Rules- 1972, invalid pension is granted if Government servant retired on account of bodily or mentally infirmity which permanently incapacitated him for further service. In such cases invalid pension is admissible, if he has completed 10 years of qualifying service.

4. Heard Learned Counsel for the parties at length. Perused the averments made in the Writ Petition and Counter-affidavit as well as the documents annexed thereto. Fact remains, the husband of the Petitioner had served only for 5 years 8 months and 26 days. He was discharged from service on the ground of invalidation on 26-12-1992 and he expired on 2-3-1998. Though rules do not specifically provide the minimum period of service required for sanction of invalid pension, in consonance with the Standing Order supra a person would be entitled to invalid pension if he has completed ten years of qualifying service. Relying upon the said Standing Order the Opposite Parties have taken a positive stand that as the husband of the Petitioner did not serve for minimum period of ten years, he was not entitled to invalid pension and consequently the Petitioner is not entitled to family pension. Such statement is not repudiated by the Petitioner by filing any rejoinder affidavit. No other material or rule was brought to the notice of the Court countenancing the aforesaid statement of the Opposite Parties. Considering all the submissions, this Court feels that the Opposite Parties have not committed any illegality or irregularity. 5. This Court accordingly dismisses the Writ Petition.