



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33864 of 2021

(An application under Article 226 and 227 of the Constitution of India)

Biswamitra Dhal

.....

Petitioner

Represented by Adv. –
Mr. P.K. Rath, Senior
Advocate

-versus-

State Of Odisha and others

.....

Opposite Parties

Represented by Adv. –
Ms. B.K. Sahu, A.G.A.

Mr. S.K. Patra, Standing
Counsel for the AG(A&E),
Odisha-O.P. No.2

W.P.(C) No.20019 of 2021

(An application under Article 226 and 227 of the Constitution of India)

***Chandrabati Panda @ Chandrbati
Padhi***

.....

Petitioner

Represented by Adv. –
Mr. Alok Kumar Mohapatra

-versus-

***The Principal Accountant General
(A and E), Odisha and others***

.....

Opposite Parties

Represented by Adv. –
Mr. S.K. Patra, Standing
Counsel for the AG(A&E),
Odisha (O.P.No.1)

Ms. B.K. Sahu, A.G.A.



W.P.(C) No.36379 of 2022

(An application under Article 226 and 227 of the Constitution of India)

Manjulata Nayak @ Manjula Rout

Petitioner

Represented by Adv. –
Mr. Sambit Rath

-versus-

State Of Odisha and another

Opposite Parties

Represented by Adv. –
Ms. B.K. Sahu, A.G.A.

Mr. S.K. Patra, Standing
Counsel for the AG(A&E),
Odisha- O.P. No.2

W.P.(C) No.36411 of 2022

(An application under Article 226 and 227 of the Constitution of India)

Bijayani Mohanty

Petitioner

Represented by Adv. –
Mr. Amiya Ranjan Swain

-versus-

***The Commissioner-cum-Secretary,
Finance Department, Odisha and
others***

Opposite Parties

Represented by Adv. –
Ms. B.K. Sahu, A.G.A.

Mr. S.K. Patra, Standing
Counsel for the AG (A&E),
Odisha- O.P. Nos. 2 & 3

CORAM:

THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

Date of Hearing: 23.12.2025 : Date of Judgement: 22.01.2026



A.K. Mohapatra, J. :

1. The above batch of Writ Petitions has been filed with the principal prayer to direct the concerned Opposite Parties to sanction and disburse family pension in favour of the Petitioners. Since the Writ Petitions are all founded on an identical factual matrix and involve similar questions of law, for the sake of expediency, they are taken up together for analogous hearing. W.P.(C) No.33864 of 2021 is taken up as the lead matter for the sake of convenience and to analyse the factual background of the writ petitions.
2. The W.P.(C) No.33864 of 2021 has been filed with a prayer to set-aside the impugned order dated 17.08.2021 passed by the office of the Principal Accountant General (A&E), Bhubaneswar, Odisha, under Annexure-1, along with an additional prayer to direct the Opposite Parties to sanction and disburse the Family Pension in favour of the Petitioner, including arrears from the date of death of the deceased pensioner.

FACTUAL MATRIX OF THE CASE

3. A concise overview of the facts forming the basis for the challenge in the present Writ Petition, is as follows; one Brundaban Behera, the deceased father of the present Petitioner, initially served as an ‘Agriculture Over-sear’ in the office of the Agriculture & Food production Department until his retirement on 31.07.1997. Consequent upon his retirement the deceased Govt. employee received his pension, since 01.08.1997, vide PPO



No.311032, under Annexure-3, until his death in 31.12.2011. After the death of the Petitioner's father, it was his widow, i.e. the Petitioner's mother, who received the family pension up until 09.06.2019 when she passed away leaving behind a son and a divorced daughter, i.e. the Petitioner. As far as the Petitioner is concerned, she was originally married to one Susanta Kumar Dhal on 03.06.2006. However, due to demand of dowry from her in-laws and other domestic issues, she was driven out of her matrimonial home and, as per the Petitioner, she has been living at her parents' house since 25.12.2010 and for her survival she is dependent on her father's pension. It is also pertinent to note that the husband of the Petitioner had filed a C.P Case No.283/2017 in the Court of Family Judge, Kendrapada for dissolution of marriage. As a result, a divorce decree dissolving the marriage between the parties has been passed on 10.01.2019, a copy of which has been annexed as Annexure-7 to the present Writ Petition.

4. After the death of the last Pensioner, i.e. the Petitioner's mother, the present Petitioner applied for family pension vide letter dated 28.08.2019, under Annexure-8, as per the applicable Orissa Civil Service (Pension) Rules, 1992 (hereinafter "1992, Rules"). Upon receipt of her pension papers, the authority forwarded the same to the Deputy Director, Agriculture. However, later the Opposite Party No.2-the Principal Accountant General (A&E), Odisha, Bhubaneswar, instead of considering



the pension papers, returned the same to the Director of Agriculture and Food Production, Odisha for re-examination of the eligibility of the Petitioner for availing family pension vide the impugned letter/ order No.17.08.2021, under Annexure-1. Aggrieved by such conduct of the Opposite Parties, the Petitioner has approached this Court by filing the present Writ Petition.

In re: W.P.(C) No.36411 of 2022

5. Inasmuch as the factual circumstances arising in W.P.(C) No. 36411 of 2022 bear certain distinguishing features vis-à-vis the other Writ Petitions in the batch, it would be appropriate to enumerate those facts separately.

6. The Petitioner's father, in the aforesaid Writ Petition, was serving as a Constable and was in receipt of pension from the State under P.P.O. No. 32605 until his demise on 30.05.2003. Upon his death, family pension under the same P.P.O. was sanctioned and disbursed in favour of his widow, i.e. the mother of the Petitioner. Subsequently, the Petitioner, who had been married earlier, became a widow upon the death of her husband on 25.11.2007. Having no independent source of income after her husband's demise, the Petitioner became destitute and took shelter at her maternal home, where she resided with her mother and was dependant on her. She continued to reside there until the unfortunate demise of her mother on 28.03.2012. Thereafter, the Petitioner submitted a representation to Opposite



Party No.2, through Opposite Party No.4, seeking sanction of family pension in her favour. However, Opposite Party No.2, vide letter/order dated 30.06.2022, returned the Petitioner's pension papers to Opposite Party No.4, clarifying that in view of Rule 80(2)(B)(iii) of the 1992, Rules, the Finance Department Notification No. 32745/F dated 23.07.2011, and the Finance Department clarification dated 24.09.2020, the Petitioner's claim was not admissible.

7. It is the Petitioner's case that the refusal of the Opposite Parties to sanction family pension in her favour is not in consonance with the Finance Department Notification No. 32745/F dated 23.07.2011, the Finance Department Memorandum dated 20.03.2013, and the Government of India Memorandum dated 18.09.2014. Moreover, since the mother of the Petitioner, who was granted family pension in accordance with the applicable Rules after the demise of her husband, i.e. the original Pensioner, was survived by the Petitioner, and since, under the said Rules, the Petitioner became eligible to seek family pension only upon the demise of her mother, she is eligible to receive the family pension.

8. As such, aggrieved by the conduct of the Opposite Parties in not sanctioning the family pension in her favour and returning her pension papers, the Petitioner has approached this Court with a prayer to quash the impugned letter/ order dated 30.06.2022, under Annexure-2 to the aforesaid



Writ Petition, along with a further prayer to direct the Opposite Parties to sanction and disburse the family pension amount in favour of the Petitioner.

SUBMISSIONS ON BEHALF OF THE PETITIONER

9. Heard Mr. P.K. Rath, learned senior counsel for the Petitioner. Perused the written note of submissions as well as pleadings of both sides in all the writ petitions taken up together for hearing. From the very outset, the Petitioners have maintained that as per the applicable rules they are eligible for family pension. However, the Opposite Parties have instead returned their pension papers for re-examining their eligibility to receive the family pension. Further, referring to the income certificate of the Petitioner at Annexure-9, the learned senior counsel submitted that the Petitioner has no other source of income and without the family pension she is suffering great financial distress. Learned senior counsel for the Petitioner further contended that the Petitioner along with her minor daughter are clearly dependent on the pension of deceased father, and have been since 25.12.2010 when she was driven out by her husband owing to demand of dowry. Also, since the divorce was granted by a competent court during the lifetime of at least one of the parents, she is clearly entitled to the family pension. As such, it was argued on behalf of the Petitioner that the conduct of the Opposite Parties in returning the Petitioner's pension papers, without



sanctioning the due family pension in her favour, is entirely illegal and arbitrary.

10. At this point, referring to the impugned letter dated 17.08.2021 under Annexure-1, the learned senior counsel for the Petitioner contended that the Opposite Parties have refused to consider the Petitioner's claim for family pension based only on a Finance Department clarification vide letter dated 24.09.2020 ("2020 clarification"), under Annexure-2, which is in respect of one Sucharita Patra, the unmarried daughter of one late Ugrasen Patra, and the said clarification does not concern the present Petitioner. Learned senior counsel for the Petitioner stated that the said clarification under Annexure-2 does not in any way bar the present Petitioner from availing the family pension. In fact, it was submitted before this Court by the learned senior counsel that earlier, vide the Finance Department notification dated 23.07.2011 ("2011 notification") under Annexure-11, the 1992, Rules were amended so as to entitle a divorced daughter beyond the age of twenty-five years to avail the benefits of family pension, provided there exists a valid divorce.

11. Referring to the copy of the judgement by the learned Judge, Family Court, Kendrapada, available at Annexure-7, the learned senior counsel for the Petitioner has stressed on the fact that although initially the Petitioner's marriage was solemnized to one Susanta Kumar Dhal, the marriage was later dissolved by a valid decree of divorce under section 13-B



of the Hindu Marriage Act, 1955, vide the judgement dated 10.01.2019 in Civil Proceeding No.283 of 2017. However, the learned senior counsel submitted, that even before the formal dissolution of the Petitioner's marriage, the matrimonial relationship between the parties had disintegrated and they were separated since 25.10.2010 when the Petitioner had been driven out of her matrimonial home by her then husband. Ever since, the Petitioner has been living separately at her parents' house as a dependent on her deceased father and then her mother, who later passed away on 09.06.2019.

12. Learned senior counsel for the Petitioner, drawing attention of this Court to the 1992, Rules, stated that as per Rule 80(2)(B)(iii) read with the finance department clarification dated 24.09.2020, a divorced daughter is entitled to family pension, even after attaining the age of twenty five years, as long as she has not remarried or died, whichever is earlier. Provided, the divorce is valid in law and the deceased pensioner is survived by the divorced daughter. Next, advertent to Rule 56 of the 1992, Rules, learned senior counsel for the Petitioner submitted that although the Petitioner was dependent upon her deceased father, the original pensioner, under the Rules she became entitled to family pension only upon the demise of her mother, who was the immediate recipient of such pension after her father's demise. Therefore, it was submitted that on a conjoint reading of the 1992 Rules, specifically Rules 56, 83, and the Finance Department Memo No.8133/F



dated 20.03.2013, at Annexure-B/1 to the Counter Affidavit by the Opposite Party No.1, the Petitioner is clearly entitled to the family pension.

13. Lastly, with respect to the decisions relied upon by the Opposite Parties, i.e. the judgment dated 07.02.2022 in **Union of India and Others v. Ratna Sarkar** (bearing *WP.CT No. 10 of 2017*) and *Shri Ram Shridhar Chimurkar v. Union of India and Anr*, reported in *2023 SCC OnLine SC 33*, learned senior counsel for the Petitioner submitted that the said judgments are clearly distinguishable on facts. It was contended that the principal issues in the aforesaid cases pertained, respectively, to the entitlement of a married daughter to family pension and to the eligibility of an adopted child to claim family pension under the Central Civil Services (Pension) Rules, 1972. Accordingly, it was urged that the case of the present Petitioner cannot be equated with those of the Petitioners in the decisions so cited.

14. On the aforesaid grounds, the learned senior counsel for the Petitioner submitted that the conduct of the Opposite Parties in returning the pension papers of the Petitioner without sanctioning the same is illegal and arbitrary in law, and, as such, the impugned order dated 17.08.2021, under Annexure-1, be set aside and the Opposite Parties be directed to sanction and disburse the family pension, including arrears, in favour of the Petitioner.



SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES

15. Heard Mr. S.K. Patra, learned counsel for AG (A&E), and Ms. Babita Kumari Sahu, learned AGA for the Opposite Parties. In order to controvert the submissions advanced by the Petitioner, Opposite Party No.2- the Principal Accountant General (A&E), Odisha, Bhubaneswar has filed a Counter Affidavit contending that the Directorate of Agriculture and Food Production, vide letter No. 122912 dated 19.04.2021, forwarded the Petitioner's pension papers for consideration in terms of the Finance Department Notification No. 32745/F dated 23.07.2011 (Annexure-11 to the present writ petition). Placing reliance on the said notification, learned counsel for Opposite Party No.2 submitted that, subject to fulfilment of the prescribed conditions, the benefit of family pension stands extended to an unmarried/ widowed/ divorced daughter above the age of twenty-five years until her remarriage or until she starts earning livelihood, or death, whichever occurs earlier. It was further contended that Rule 80(2)(B)(iii) of the Odisha Civil Services (Pension) Rules, 1992 provides that where the deceased pensioner is survived by an unmarried, widowed, or divorced daughter who has attained majority, such daughter is entitled to claim family pension in Form-K. According to the learned counsel for Opposite Party No.2 appearing for the Opposite Party No.2, this procedural framework has been extended to divorced daughters beyond the age of twenty-five years by virtue of the aforesaid Finance Department Notification dated 23.07.2011.



16. The Learned counsel for Opposite Party No.2 further submitted that upon the consideration of the pension papers of the Petitioner it was found that the Government Employee-Pensioner, i.e. the father of the Petitioner, passed away on 31.12.2011 and the Petitioner had her marriage dissolved on 10.01.2019 via divorce on mutual consent in C.P No.283 of 2017, as per Annexure-7. As such, the Petitioner attained the status of a divorced daughter claiming the family pension only after the death of her father-deceased Pensioner. Therefore, the Pensioner-Government Employee cannot be said to have been survived by the Petitioner and she cannot be held eligible for receiving the benefit of family pension as per the 1992 Rules, the 2011 notification (Annexure-11) and the 2020 clarification (Annexure-2).

17. It was further urged by the learned counsel for Opposite Party No.2 appearing for the Opposite Party No.2 that keeping in view the aforesaid legal position, the family pension papers of the Petitioner were returned by the office of the Opposite Party No.2, vide letter dated 17.08.2021 to the Directorate of Agriculture and Food Production, Odisha with a request to re-examine the eligibility of the Petitioner to avail the family pension. It was submitted that the Opposite Party No.2 is merely a functionary of the State and is responsible for authorizing pensionary benefits to government employees and their family members as per the 1992, Rules. It was stated



that in the present case, since it is a policy decision of the Government of India, the Opposite Party No.2 does not have the authority to disburse the family pension in favour of the Petitioner without any specific order to that effect from the State Government.

18. In addition to the above, Opposite Party No.1-State has filed a separate counter affidavit. Referring thereto, it has been contended therein that the present Writ Petition is wholly misconceived and liable to be dismissed on the ground of non-joinder of a necessary party, namely, the Department of Agriculture and Farmers' Empowerment, which has not been impleaded in the present proceedings. It was further submitted that the scheme providing for family pension is admittedly a welfare measure, however in the present matter the principal issue falling for consideration is whether a married daughter of a deceased Government Employee-Pensioner, who is above the age of twenty-five years, is entitled to family pension in the event she obtains a decree of divorce long after the death of the pensioner-Government Employee.

19. To further substantiate its stance, the Opposite Party No.1-State, in the aforesaid counter affidavit, has given a brief account of the historical development of the relevant rules governing disbursement of family pension. It was contended that the present version of the relevant rules, i.e. the 1992 Rules is an evolution of the Finance Department resolution No.13795/F



dated 19.09.1951, which was later modified vide a subsequent Resolution No.215/F dated 03.01.1962. Thereafter, the State Government formulated the 'Orissa Civil Service Family Pension Scheme, 1964' which included a option based scheme where employees opting to be covered under the scheme had to contribute certain amount before availing the benefits therein. The said provisions were incorporated in Chapter VIII of the Orissa Pension Rules, 1977 but the condition for contribution was done away with effect from 13.12.1977. At this point, the maximum age limit for an unmarried daughter to avail family pension was 21 years, which was then enhanced to 25 years since 13.10.1987. The said provision was also a part of the later 1992 Rules. Finally, vide the Finance Department Notification No.32745/F dated 23.07.2011, under Annexure-11, the State Government has extended the scope of family pension, subject to certain conditions provided in Rule 56(5) of the 1992 Rules, to unmarried/ widowed/ divorced/ disable widowed/ disabled divorced daughters of deceased State Government employees/ Pensioners even after attaining 25 years of age.

20. In the aforesaid counter-affidavit, it has been further stated that the Petitioner has not furnished the complete details of the service background of her father, i.e. the Government Servant-Pensioner. However, while considering her case, it was later ascertained that the father of the Petitioner received monthly pension till his death on 31.12.2011, after which it was



disbursed in favour of the widow of the deceased Pensioner, i.e. the mother of the Petitioner till her death on 09.06.2019. In the meanwhile the Petitioner's marriage was dissolved vide a decree dated 10.01.2019. Therefore, the Petitioner cannot be said to fulfill the tell-tale stipulation under Rule 80(2)(B)(iii) of the 1992 Rules and she cannot be considered to be a divorced daughter dependent on the pension received by the retired Government Employee at the time of his death on 31.12.2011. Additionally, with regard to the Petitioner's contention that she was deserted by her husband since 25.12.2010, the learned AGA submitted that there is nothing on record to show any legal proceeding regarding payment of maintenance or otherwise initiated against the ex-husband of the Petitioner around the time she claims to have been deserted by him. It was also contended that it is the date of the decree of divorce which is the determining factor when considering whether the Petitioner was actually a dependent on the pension received by the her father-deceased Government Servant.

21. Next, addressing the Petitioner's contention that non-consideration of her claim to family pension by the Opposite Party No.2, is based on the Finance Department letter dated 24.09.2020 which actually refers to a different individual and not the Petitioner, and, as such, shall not bar the Petitioner's right to avail family pension rightfully due to her, the learned AGA, referring to the Counter Affidavit filed by the Opposite Party No.1



submitted that the Petitioner has referred to an unmarried daughter and not a divorced daughter. In this regard, the learned AGA stated before this Court that the words “Unmarried”, “Widowed”, and “Divorced” all have different connotations. An unmarried daughter is dependent on her father right from her youth until her marriage or death and remains a part of the father’s family as long as she remains unmarried. Whereas, a widowed or divorced daughter becomes a part of her husband’s family upon marriage. She attains the status of a ‘widow’ or ‘divorcee’ upon the death of her husband or divorce. Moreover, it is the status of the children of the Pensioner-Government Employee at the time of his death which would determine their eligibility to receive family pension. As such, it was contended that a widowed/ divorced daughter cannot be treated at par with an unmarried daughter.

22. Lastly, the learned AGA for the Opposite Party No.1 submitted before this Court that, although pension is a right and not a mere bounty, the scheme of family pension, being a welfare legislation intended for the benefit of eligible family members of a retired Government employee, has undergone subsequent liberalisation and simplification. However, such liberalisation, it was contended, does not dispense with the requirement of strict adherence to the statutory provisions governing the sanction of family pension. Referring specifically to Rule 80 of the 1992 Rules, learned AGA



submitted that where a deceased Pensioner is survived by a widowed/divorced/ unmarried daughter, the Pension Sanctioning Authority is duty-bound to conduct a thorough scrutiny before forwarding the case to the office of the Principal Accountant General (A&E), Odisha. It was submitted that any error committed by the Pension Sanctioning Authority while forwarding a claim does not, by itself, create or confer a right on the applicant to avail family pension. On these grounds, the learned counsel for Opposite Party No.2 has urged that the present Writ Petition, being devoid of merit, is liable to be dismissed.

ANALYSIS OF THE COURT

23. Heard learned counsel for the respective parties and perused the materials available on record, including the counter affidavits filed by the Opposite Parties and the rejoinder affidavit filed by the Petitioner. At the outset, it is undisputed that the retired Government employee, i.e. the father of the Petitioner, superannuated on 31.07.1997 and was in receipt of pension with effect from 01.08.1997 until his demise on 31.12.2011. Upon his death, family pension was sanctioned in favour of his widow, i.e. the Petitioner's mother, and continued to be disbursed until her death on 09.06.2019. As one of the legal heirs, the Petitioner, whose marriage was solemnized on 03.06.2006 and subsequently dissolved by a decree of divorce by mutual consent dated 10.01.2019 passed in C.P. No. 283 of 2017, applied for grant



of family pension on 28.08.2019 under the Odisha Civil Services (Pension) Rules, 1992. However, the Opposite Parties, instead of sanctioning the pension, returned the Petitioner's pension papers on the principal ground that given the date of death of the deceased pensioner and the date of divorce of the Petitioner, the deceased Pensioner cannot be said to have been "survived" by the Petitioner and, as such, the Petitioner is ineligible for family pension under the 1992 Rules, the Notification dated 2011 (Annexure-11), and the clarification issued in 2020 (Annexure-2). The Petitioner, on the other hand, has taken a firm stand that although the decree of divorce was passed on 10.01.2019, she had been dependent upon her father's pension since 25.10.2010, i.e. from the date she was driven out of her matrimonial home. On this premise, it has been contended that she falls squarely within the category of eligible beneficiaries and is entitled to the grant of family pension

24. The central issue which emerges from the aforesaid undisputed facts is whether the Petitioner can be construed as a dependent eligible to receive family pension in light of the fact that she became a divorcee after the death of the Pensioner-retired Government Employee, even though, as per the Petitioner, she was already dependent on her father-deceased Pensioner since 25.12.2010, having been ousted from her matrimonial home. Therefore, in order to fairly adjudicate the relief claimed by the Petitioner, this Court is required to first decide as to whether a divorced



daughter can be considered a beneficiary for receiving family pension under the applicable rules when the date of her divorce is post the date of death of the Pensioner, but she has been living with her father-Pensioner prior to his demise.

25. Before venturing into the merits of the matter, this Court considers it necessary to address the objection to the maintainability of the present Writ Petition raised by Opposite Party No.1-State in its counter affidavit. The objection proceeds on the premise that the Department of Agriculture and Farmers' Empowerment is a necessary party and, having not been impleaded, the writ petition is liable to be dismissed as not maintainable. It is apposite to note the settled position of law that a necessary party is one without whose presence no effective or enforceable order can be passed. Non-joinder of a necessary party is fatal in respect of maintainability of Writ. Therefore, maintainability of a writ petition, in the context of an objection of non-joinder, is required to be examined on the touchstone of whether the authority competent to decide the claim and to implement the relief sought is present before the Court, whether any adverse or binding order is proposed to be passed against the alleged non-impleaded entity as a distinct legal person and whether the interests of such entity are adequately represented through the parties already on record.

26. Tested on the aforesaid principles, this Court finds no substance in the objection raised by the State. A perusal of the cause title reveals that the



Director, Agriculture & Food Production, Odisha, along with the Deputy Director of Agriculture, Keonjhar, and the District Agriculture Officer, Keonjhar have been arrayed as Opposite Party Nos.3, 4 and 5 respectively, along with the Principal Accountant General (A&E), Odisha, Bhubaneswar as Opposite Party No.2. The said authorities are the functionaries through whom the Department acts and are vested with the competence to consider the Petitioner's claim as well as to give effect to any directions that may be issued by this Court. In the presence of Opposite Party Nos.3, 4 and 5, it cannot be said that no effective or enforceable order can be passed in the absence of the Department of Agriculture and Farmers' Empowerment as a separately named party. Consequently, this Court is of the considered view that the objection is without force, and the Writ Petition is maintainable.

27. Before proceeding further, it would be most expedient to quote relevant provisions of the 1992, Rules applicable to the present matter.

Rule 56(5)(e), under Chapter-VII of the 1992, Rules;

“56. Family Pension

56 (5) (e) In the case of widowed / divorced / disabled widowed / disabled divorced daughters even after attaining the age of twenty five years till their remarriage or death whichever is earlier subject to the condition that in case of divorced daughters / disabled divorced daughter, the divorce is valid in law and the case of widowed / disabled widowed daughter, the family pension for life from the date of death of her husband and there is no other eligible unmarried daughter beyond



the age of twenty five years and disabled son / disabled unmarried daughter to receive the family pension. The benefit of family pension for life shall be admissible to the widowed / divorced daughter only after cessation of the claim of disabled widowed / disabled divorced daughter. The other conditions governing grant of family pension to the unmarried daughters as specified in clause (d) shall also be applicable in the case of widowed / disabled widowed / disabled divorced daughters for grant of family pension in their favour. (vide Finance Department Notification No.32745/F., dtd.23.07.2011).

Provided that if the son or unmarried daughter including widowed / divorced daughter of a Government servant is suffering from any disorder or disabled of mind or is physically crippled / disabled so as to render him or her, unable to earn a living even after attaining the age of twenty five years, the family pension shall be paid to such son or unmarried daughter for life subject to the following conditions, namely-

(i) If such son or unmarried daughter is one among two or more children of the Government servant / pensioner, the family pension shall be initially payable to the children in the order set out in clause (c) of sub-rule (7) hereinafter until the last child attains the age of twenty five years and thereafter the family pension shall be resumed in favour of the son or unmarried daughter suffering from disorder or disability of mind or who is physically crippled or disabled and shall be payable to him/her for life. The said benefit shall also be admissible in the case of disabled widowed / disabled divorced daughter of a Government servant / pensioner in case there is no other disabled son / disabled unmarried daughter and eligible unmarried daughter. (vide Finance Department Notification No.32745/F., dtd.23.07.2011)

(ii) If there are more than one such son or unmarried daughter suffering from disorder or disability of mind or who are physically



crippled or disabled, the family pension shall be paid in order of their birth and the younger of them will get the family pension only after the elder next above him / her ceases to be eligible. (vide Finance Department Notification No.32745/F., dtd.23.07.2011)

Explanation- *The similar principle shall also be adopted in case of disabled widowed / disabled divorced daughter subject to the condition that there is no other disabled son or disabled unmarried daughter of the deceased Government servant / pensioner. (vide Finance Department Notification No.32745/F.,dated 23.07.2011)”*

Rule 80(2)(B)(iii), under Chapter-X of the 1992 Rules;

“80. Sanction of family pension and residuary gratuity on the death of a pensioner-

(2)(B) (iii) *Where the deceased pensioner is survived by unmarried / widowed / divorced daughters who have attained the age of eighteen years, such daughter may herself submit a claim in Form-K to the Head of Office. But, in the case of disabled widowed / disabled divorced daughter, the guardian of such daughter may submit a claim in Form-K to the Appointing Authority (vide Finance Department Notification No.32745/F., dtd.23.07.2011) and (vide Finance Department Notification No.24142/F., dtd.04.09.2015)”*

28. On a careful analysis of the Odisha Civil Services (Pension) Rules, 1992, particularly Chapter VII relating to “Family Pension” and the allied provisions relevant to the present case, it becomes evident that the legislative intent underlying the said Rules is to confer pensionary benefits



upon a Government employee who has rendered service to the State, as well as upon his/ her dependent family members. It is now well settled, as consistently held by a catena of decisions of the Hon'ble Supreme Court and various High Courts, that pension is neither a bounty nor a matter of charity, but a vested and enforceable right flowing from the long and faithful service rendered by the Government employee. Pension, in essence, constitutes a measure of social security intended to ensure dignity and subsistence to the superannuated employee and, upon his demise, to his/ her dependent family members (see *A.P. Srivastava v. Union of India*, reported in (1995) 6 SCC 227, *D.S. Nakara v. Union of India*, reported in (1983) 1 SCC 305, *U.P. Raghavendra Acharya v. State of Karnataka*, reported in (2006) 9 SCC 630 and a catena of other decisions).

29. Proceeding on the same premise, a statutory scheme providing for family pension can be considered to be plainly in the nature of a welfare measure, intended to confer social security upon the dependent family members of a Government employee who has rendered long years of service. Such a scheme squarely falls within the category of a Beneficial Legislation. It is well settled that beneficial legislations are to be construed liberally so as to advance the object sought to be achieved. So far as a Beneficial Legislation is concerned, Justice Krishna Iyer in *Som Prakash Rekhi v. Union of India*, reported in (1981) 1 SCC 449, stated that a



benignant provision must receive a benignant construction and, even if two interpretations are permissible, the one which furthers the beneficial object should be the one that is preferred. The said principle of interpretation was again enumerated in *S. Gopal Reddy v. State of A.P.*, reported in (1996) 4 SCC 596, wherein it was observed that;

“12. It is a well-known rule of interpretation of statutes that the text and the context of the entire Act must be looked into while interpreting any of the expressions used in a statute. The courts must look to the object which the statute seeks to achieve while interpreting any of the provisions of the Act. A purposive approach for interpreting the Act is necessary.”

30. Thereafter, a three-Judge Bench of the Hon’ble Supreme Court, in reference to the ESI Act, in *Transport Corpn. of India v. ESI Corpn.*, reported in (2000) 1 SCC 332, held that;

“27. Before parting with the discussion on this point, it is necessary to keep in view the salient fact that the Act is a beneficial piece of legislation intended to provide benefits to employees in case of sickness, maternity, employment injury and for certain other matters in relation thereto. It is enacted with a view to ensuring social welfare and for providing safe insurance cover to employees who were likely to suffer from various physical illnesses during the course of their employment. Such a beneficial piece of legislation has to be construed in its correct perspective so as to fructify the legislative intention underlying its enactment. When two views are possible on its applicability to a given set of employees, that view which furthers



the legislative intention should be preferred to the one which would frustrate it. ...”

(Emphasis supplied)

31. The Hon’ble Apex Court, once again in ***Bombay Anand Bhavan Restaurant v. ESI Corpn.***, reported in **(2009) 9 SCC 61**, while discussing the Employees' State Insurance Act, made the following observation regarding a Beneficial Legislation,

“20. The Employees' State Insurance Act is a beneficial legislation. The main purpose of the enactment as the Preamble suggests, is to provide for certain benefits to employees of a factory in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto. The Employees' State Insurance Act is a social security legislation and the canons of interpreting a social legislation are different from the canons of interpretation of taxation law. The courts must not countenance any subterfuge which would defeat the provisions of social legislation and the courts must even, if necessary, strain the language of the Act in order to achieve the purpose which the legislature had in placing this legislation on the statute book. The Act, therefore, must receive a liberal construction so as to promote its objects.”

(Emphasis supplied)

32. In ***Union of India v. Prabhakaran Vijayakumar***, reported in **2008 (4) MLJ 323**, the Hon'ble Supreme Court, in paragraph Nos. 12 to 15, held that it is well settled that if the words used in a beneficial or welfare statute are capable of two constructions, the one which is more in



consonance with the object of the Act and for the benefit of the person for whom the Act was made should be preferred. In other words, beneficial or welfare statutes should be given a liberal and not literal or strict interpretation. Likewise, in *Allahabad Bank v. All India Allahabad Bank Retired Employees Assn.*, reported in (2010) 2 SCC 44, the Hon'ble Apex Court further observed;

“16. ...Remedial statutes, in contradistinction to penal statutes, are known as welfare, beneficent or social justice oriented legislations. Such welfare statutes always receive a liberal construction. They are required to be so construed so as to secure the relief contemplated by the statute. It is well settled and needs no restatement at our hands that labour and welfare legislation have to be broadly and liberally construed having due regard to the directive principles of State policy. The Act with which we are concerned for the present is undoubtedly one such welfare oriented legislation meant to confer certain benefits upon the employees working in various establishments in the country.”

(Emphasis Supplied)

33. In *State of U.P. v. Hari Ram*, reported in (2013) 4 SCC 280, the Hon'ble Apex Court was faced with the question of ascertaining the meaning of “acquired” and “vested” for the purpose of Section 10 of the Urban Land (Ceiling and Regulation) Act, 1976. The Court not only referred to the dictionary meanings assigned to these terms, but also placed heavy reliance on the context in which the words were used, and with regard



to interpretation of certain words or phrases occurring in a welfare statute, observed that;

“21. ... Each word, phrase or sentence that we get in a statutory provision, if not defined in the Act, then is to be construed in the light of the general purpose of the Act. As held by this Court in Organo Chemical Industries v. Union of India [(1979) 4 SCC 573 : 1980 SCC (L&S) 92] that a bare mechanical interpretation of the words and application of a legislative intent devoid of concept of purpose will reduce most of the remedial and beneficial legislation to futility. Reference may also be made to the judgment of this Court in Directorate of Enforcement v. Deepak Mahajan [Directorate of Enforcement v. Deepak Mahajan, (1994) 3 SCC 440 : 1994 SCC (Cri) 785] . Words and phrases, therefore, occurring in the statute are to be taken not in an isolated or detached manner, they are associated on the context but are read together and construed in the light of the purpose and object of the Act.”

34. Thereafter, in ***Bangalore Turf Club Ltd. v. ESI Corpn.***, reported in (2014) 9 SCC 657 the Hon'ble Supreme Court, so far as interpretation of a beneficial/ welfare legislation is concerned, once again observed that;

“16. The primary rule of interpretation of statutes may be the literal rule, however, in the case of beneficial legislations and legislations enacted for the welfare of employees, workmen, this Court has on numerous occasions adopted the liberal rule of interpretation to ensure that the benefits extend to those workers who need to be covered based on the intention of the legislature.



31. We may safely conclude that the literal rule of construction may be the primary approach to be utilised for interpretation of a statute and that words in the statute should in the first instance be given their meaning as understood in common parlance. However, the ESI Act is a beneficial legislation. It seeks to provide social security to those workers as it encompasses. In the light of the cases referred above, it may be seen that the traditional approach can be substituted. A dictionary meaning may be attached to the words in a statute in preference over the traditional meaning. However, for this purpose as well, the scheme, context and objects of the legislature must be taken into consideration. Taking into due consideration the nature and purpose of the ESI Act, the dictionary meaning as understood in the context of the said Act would be preferable to achieve the objects of the legislature.”

35. Reverting to the facts of the present case, the principal issue that arises concerns the determination of the point of time from which the Petitioner’s dependency on her father, the retired Government employee–pensioner, is to be reckoned for the purpose of adjudicating her entitlement to family pension. The controversy hovers around whether such dependency is to be computed from the date on which the Petitioner was separated from her husband and came to reside with her parents after being ousted from her matrimonial home, or from the date of the decree of divorce. According to the Opposite Parties, the Petitioner’s dependency can be recognised only from the date of divorce, which admittedly post-dates the death of the Pensioner, thereby disentitling her to family pension. Per contra, the



Petitioner contends that her dependency must be assessed from the date she left her husband's house and began residing with her parents as a dependent, irrespective of the subsequent formal dissolution of marriage.

36. So far as the statutory framework is concerned, there is no dispute that the family pension scheme is a welfare legislation enacted with the objective of providing financial security to the dependent family members of a retired Government employee-Pensioner. A perusal of the legislative evolution of the family pension scheme, as reflected in the Counter Affidavit filed by Opposite Party No.1, particularly paragraph 7 thereof, clearly demonstrates a progressive and purposive expansion of the scope of the legislation in the direction of its above-stated objective. Initially, in the year 1951, family pension was made available to eligible family members only for a limited period of five years, or for the unexpired portion thereof from the date of retirement. Subsequently, by the Finance Department Resolution dated 03.01.1962, the duration of the benefit was extended to ten years, further extendable by a maximum period of five years. Thereafter, under the Pension Rules of 1977, the contributory nature of family pension was abolished, and the benefit was extended to eligible family members with an enhancement of the upper age limit to twenty-five years. These provisions were later carried forward and incorporated into the Odisha Civil Services (Pension) Rules, 1992.



37. The scheme was further liberalised to extend family pension, in the absence of a spouse or children, to the parents of the deceased Government Employee. Next, vide Finance Department Notification No.32745/F dated 23.07.2011, particularly clause 4 thereof, the benefit of family pension was extended to an unmarried daughter even after attaining the age of twenty-five years until her marriage or death, subject to her income being within the prescribed limit. By the same notification, Rule 56(5)(e) was introduced, enabling a divorced daughter to avail family pension even after the age of twenty-five years until her remarriage or death, whichever occurs earlier, subject to the condition that the divorce must be legally valid. Most recently, by Finance Department Notification No.15316/F dated 19.05.2025 promulgating the Odisha Civil Services (Pension) Amendment Rules, 2025, read with Office Memorandum No. 16028/F dated 29.05.2025, the Legislature has further expanded the ambit of family pension by amending Rule 56(5)(a) to include a post-retiral spouse as well as a judicially separated wife or husband within the fold of eligible beneficiaries.

38. From the foregoing analysis and the undisputed facts of the matter, three conclusions clearly emerge. *Firstly*, the Petitioner does not incur any of the disqualifications contemplated under Rule 56 or Rule 80(2)(B)(iii) of the 1992, Rules. *Secondly*, the Petitioner has obtained a valid decree of divorce and, therefore, satisfies the statutory condition present in the relevant provision. *Thirdly*, the legislative trajectory over the years



demonstrates a conscious and consistent endeavour by the lawmakers to broaden the ambit of the family pension scheme so as to include an expanding class of dependent family members of a deceased pensioner, who are in need of such financial support. A cumulative reading of the 1992 Rules, particularly Chapter VII titled “Family Pension”, together with the historical evolution of the scheme, makes it abundantly clear that the dominant purpose of the scheme is to ensure that the immediate family members of a deceased pensioner, who were dependent upon him/ her during his or her lifetime, are not denied the benefit of family pension. As such, depriving a bona fide dependent of such benefit on the basis of an unduly rigid or technical interpretation of the Rules would defeat the very object sought to be achieved by the Scheme/ Statute. A similar view has been echoed by coordinate Benches of this Court in *Lokajanani Sahany v. State of Odisha & Ors.*, bearing *W.P.(C) No.14235 of 2024* vide order dated 04.09.2024 and *Mamata Barik v. State of Odisha & Ors*, bearing *W.P.(C) No.15859 of 2024* vide order dated 19.09.2024.

39. In the present case, it is an admitted position that the Petitioner, who claims entitlement to family pension and has challenged the action of the Opposite Parties in declining to sanction the same, obtained a decree of divorce on 10.01.2019, i.e. long after the demise of her father, the retired Government Employee-Pensioner, on 31.12.2011. However, it is equally undisputed that the Petitioner had been ousted from her matrimonial home



and was residing with her parents since 25.12.2010, which was prior to the death of her father. This factual position clearly establishes the Petitioner's dependency, initially upon her father, the deceased Pensioner, and thereafter upon her mother, who passed away subsequently.

40. In this context, the Finance Department Notification No. 26253/F dated 24.09.2020, placed at Annexure-2 to the present writ petition, while clarifying Rule 80(2)(B)(iii), reiterates at Serial No.1 that where a Pensioner is survived by a divorced daughter who was dependent upon the Pensioner at the time of his or her death, such daughter would be entitled to submit her claim in Form-K and receive family pension. Similarly, the Office Memorandum dated 20.03.2023 issued by the Finance Department, annexed as Annexure-B/1 to the counter affidavit of Opposite Party No.1, records the decision of the State Government that divorced daughters of deceased Government pensioners shall be eligible for family pension in terms of Finance Department Notification No. 32745/F dated 23.07.2011. As noticed earlier, the sole deficiency in the Petitioner's claim, as pointed out in the impugned letter dated 17.08.2021, is the alleged absence of dependency of the Petitioner at the time of the Pensioner's demise. Significantly, the latest Office Memorandum No. 16028/F dated 29.05.2025, which serves as a ready reckoner of the 1992, Rules introduced by Notification No. 15316/F dated 19.05.2025, clarifies at Serial No.11 that, pursuant to amended Rule 56(5)(e), a divorced daughter shall be eligible for family pension if she was



originally dependent upon her father or mother who was a Government employee. This marks a clear departure from the earlier versions of the scheme which did not expressly predicate eligibility to avail family pension based on the dependency of the family members claiming the same.

41. This Court is of the considered view that such an interpretation not only further augments the objective of the pension scheme but is also consistent with the settled principles governing the interpretation of beneficial and welfare legislation, which, in the present case, include the 1992, Rules and the allied clarifications and notifications.

In re: W.P.(C) No.36411 of 2022

42. A plain reading of Rules 80(2)(A)(i), 80(2)(B)(i) and 80(2)(B)(iii) of the OCS (Pension) Rules, 1992 makes it clear that the Petitioner would acquire eligibility to receive family pension only upon the demise of her mother, who was the lawful recipient of family pension after the death of the original Pensioner. It is also undisputed that after the death of her husband, the Petitioner had moved in with her mother and was wholly dependent upon her, surviving on the family pension received by the mother, who was the immediate predecessor-in-entitlement prior to the Petitioner.

43. As it stands, although the Petitioner qualifies all other eligibility criteria for receiving family pension, a strict interpretation of the applicable pension scheme prevents her from availing the same. In addition, the Office Memo dated 18.09.2014 by the Department of Pension & Pensioner's



Welfare, Government of India, a copy of which is available at Annexure-5 to W.P.(C) No.36411 of 2012, contains certain clarification regarding entitlement of family pension as per the CCS (Pension) Rules, 1972. The third paragraph with reference to the earlier Office Memorandum dated 11.09.2013, clarifies that where a divorced daughter attains such a status during the period when her “father/mother” was receiving “pension/family pension”, she would be entitled to family pension, subject to fulfilment of other conditions. The deliberate use of the phrases “father/mother” and “pension/family pension” unmistakably indicates an intent to include both the original parent-Government Employee receiving the pension and the subsequent parent who received the family pension after demise of the original Pensioner.

44. Given that the aforesaid CCS (Pension) Rules, 1972 is the *pari materia* framework to the present 1992, Rules, this Court, in light of the broader analysis rendered in the previous paragraphs, deems it appropriate and desirable to adopt an interpretation that advances the beneficial object of the pension scheme. Such an approach not only aligns with the settled principles governing interpretation of welfare legislation but also avoids an unduly restrictive construction that would defeat the very purpose of family pension

CONCLUSION



45. Taking into consideration the foregoing analysis of the applicable legal principles, the relevant statutory provisions, judicial precedents cited hereinabove, and the undisputed facts of the case, this Court holds that the Petitioner was indeed dependent upon her father, the deceased Pensioner, at the time of his demise. The Petitioner, having obtained a valid decree of divorce and having satisfied the income-related criteria, fulfils all other conditions requisite for availing family pension. In view of the aforesaid conclusion, this Court is of the considered opinion that the conduct of the Opposite Parties in returning the Petitioner's pension papers without sanctioning family pension in her favour is unsustainable in law and contrary to the interpretation of the applicable Rules adopted by this Court. Consequently, the impugned letter/ order dated 17.08.2021, issued by the Office of the Principal Accountant General (A&E), Odisha, i.e. Opposite Party No. 2, cannot be sustained in the eyes of law.

46. Accordingly, the impugned letter/ order dated 17.08.2021 issued by the Office of the Principal Accountant General (A&E), Odisha, i.e. Opposite Party No.2, under Annexure-1, is hereby set-aside. The present Writ Petition is allowed with a direction to the Opposite Party Nos.2 & 3 to re-consider the case of the Petitioner on the basis of the pension papers submitted by her at Annexure-3 and, to sanction and disburse the family pension, including arrears, if any, due and admissible to the Petitioner, within a period of eight weeks from the date of this judgement. In the event any further information,



in addition to the Pension Papers already submitted at Annexure-3, is required to carry out the aforesaid direction, the same may be called for from the Petitioner.

47. Consequently, the Writ Petition is hereby allowed with the aforesaid observation/ direction.

48. All other Writ Petitions forming part of the present batch, including W.P.(C) No.36411 of 2022, are hereby allowed in terms of the aforesaid analysis and directions, and the respective impugned orders challenged therein shall stand set aside accordingly.

49. There shall be no order as to costs.

(A.K. Mohapatra)
Judge

Orissa High Court, Cuttack
The 22nd January, 2026/Sisir Kumar Sethi/P.A.