

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 1519 of 2022

Bighneswar Sethi

.....

Petitioner

Mr. D.K. Mohanty, Advocate

-Versus-

State of Odisha and others

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

19.05.2022

I.A. No. 2231 of 2022

Order No.
02.

This matter is taken up by hybrid mode.

2. This interlocutory application has been filed by the petitioner for modification/correction of order dated 02.02.2022 passed in W.P.(C) No. 1519 of 2022.

3. Considering the averments made in the application itself and after hearing learned counsel for the petitioner, the order dated 02.02.2022 passed in W.P.(C) No.1519 of 2022 is recalled and fresh order is passed in W.P.(C) No. 1519 of 2022.

4. The interlocutory application stands disposed of.

(DR. B.R. SARANGI)

JUDGE

P.T.O.

W.P.(C) No. 1519 of 2022

Order No.
03.

This matter is taken up through hybrid mode.

2. Heard Mr. D.K. Mohanty, learned counsel for the petitioner.
3. Against rejection of claim for compassionate appointment vide order/letter dated 03.01.2022 under Annexure-8 referring to Govt. of Odisha, GA. & P.G. Deptt. Notification dated 17.02.2020 para-6 Clause-2(b), the petitioner has approached this Court by filing this writ petition.
4. Mr. D.K. Mohanty, learned counsel for Petitioner contended that the father of the petitioner died on 12.09.2011 while he was in employment. By the time he died, the petitioner was 13 years of age. Therefore, on attaining the age of majority, he applied for compassionate appointment under OCS(RA) Rule, 1990, but the same has been rejected in pursuance of the OCS (RA) Rule, 2020, which is not applicable to the petitioner.
5. Mr. B.P. Tripathy, learned Additional Government Advocate contended that in view of para-6 Clause-2(b) of the Govt. of Odisha, GA. & P.G. Deptt. Notification dated 17.02.2020, the authority is well justified in passing the order impugned.
6. Looking to the date of death of the deceased involving whom appointment under the Rehabilitation Assistance Scheme is sought and the date of application for appointment under the Rehabilitation Assistance Scheme, this Court finds, the issuance of rejection letter vide Annexure-8 applying the provision in the 2020 Rule, which has even not seen the light of the day on the date of death, remains contrary to the decision of the apex Court in the case of *State of Madhya Pradesh v. Ashish Awasthi*, 2021(II) OLR (SC) 1072, wherein the apex court in a clear and categorical term observed that the Policy

prevalent at the time of death of the deceased employee is only to be considered and not the subsequent policy. This Court, therefore, interfering with the rejection order/letter dated 03.01.2022 vide Annexure-8 sets aside the same and directs Opposite Party No.3 to consider the case of the Petitioner for appointment under the Rehabilitation Assistance Scheme in terms of the provision at Orissa Civil Services (Rehabilitation Assistance) Rules, 1990 with the amended Rules, 2016.

7. The entire exercise shall be completed within a period of three months from the date of production of the certified copy of this order by the Petitioner.

8. With the aforesaid observation and direction the writ petition stands disposed of.

Issue urgent certified copy as per rules.

Ashok

