

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 25648 of 2012

*State of Odisha and another*

.....

*Petitioners*

*Mr. A.K. Mishra, AGA*

Vs.

*Manoj Kumar Parida*

.....

*Opposite Parties*

*Mr. M. Pratap, Adv.*

**CORAM:**

**DR. JUSTICE B.R. SARANGI**

**MISS JUSTICE SAVITRI RATHO**

**ORDER**

**28.03.2022**

**Order No.**

20.

This matter is taken up through hybrid mode.

2. The State-petitioners have filed this writ petition challenging the judgment dated 18.07.2012 passed in O.A. No. 1667 of 2007, by which the Orissa Administrative Tribunal, Bhubaneswar has, by holding that the order rejecting the claim of the opposite party is non-speaking one, quashed the same and directed the State-opposite parties to issue appointment order in favour of the opposite party under Rehabilitation Assistance Rules, 1990 according to his qualification and as per his eligibility by condoning his upper age limit.

3. Mr. A.K. Mishra, learned Addl. Government Advocate contended that once the tribunal has come to a finding that the order of rejection has been passed without assigning any reason and the same is non-speaking one, in that case, opportunity should have been given to the authority to consider the same in accordance with law. As such, the State-petitioners are also aggrieved by the further direction of the tribunal with regard to giving appointment to the opposite party under Rehabilitation Assistance Rules, 1990 according to his qualification and as per

his eligibility by condoning his upper age limit. Therefore, the petitioners have approached this Court by filing the present writ petition.

4. Mr. M. Pratap, learned counsel for the opposite party contended that the opposite party claims for compassionate appointment under Rehabilitation Assistance Rules, 1990 and, as such, he having requisite qualification, approached from pillar to post. But, instead of extending such benefit to him, order of rejection was passed by the authority without assigning any reason. Therefore, they approached the tribunal and in turn, the tribunal, by holding that the order rejecting the claim of the opposite party is non-speaking one, quashed the order of rejection passed by the authority under Annexure-14 and directed the State-opposite parties to issue appointment order in favour of the opposite party under Rehabilitation Assistance Rules, 1990 according to his qualification and as per his eligibility by condoning his upper age limit. Thereby, the tribunal has not committed any error so as to warrant interference with the same.

5. Having heard learned counsel for the parties and after going through the records, this Court finds that once the tribunal has come to a finding that the order of rejection of claim of the petitioner for giving compassionate appointment vide Annexure-14 is non-speaking one and, therefore, the same cannot stand on scrutiny of the existing Rules and guidelines and is liable to be quashed, in that case, the matter could have been remanded to the authority for reconsideration in accordance with law. But, instead of remanding the matter, the tribunal directed the State-opposite parties to issue appointment order in favour of the opposite party

under Rehabilitation Assistance Rules, 1990 according to his qualification and as per his eligibility by condoning his upper age limit. Thereby, this Court is of the considered view that the tribunal has acted in excess of its jurisdiction. Once the rejection order has been quashed, the authority could have been given opportunity to pass a reasoned order. The same having not been done, the order to the extent to consider the case of the opposite party under Rehabilitation Assistance Rules, 1990 according to his qualification and as per his eligibility by condoning his upper age limit, cannot have any justification.

6. In view of the above position, in modification of the direction of the tribunal, the matter is remitted back to the authority concerned to reconsider the case of opposite party and pass a reasoned order, as the Annexure-14 rejecting the claim of the petitioner has already been quashed by the tribunal, as expeditiously as possible, preferably within a period of six weeks from the date of production of certified copy of this order.

7. The writ petition stands allowed to extent indicated above.  
Issue urgent certified copy as per rules.

**(DR. B.R. SARANGI)**  
**JUDGE**

**(SAVITRI RATHO)**  
**JUDGE**

*Ashok/Sukanta*