IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 4227 of 2022

Partha Sarathi Sarangi **….** ***Petitioner***

Mr.A.K. Panda, Advocate.

-Versus -

State of Odisha and others **….** ***Opposite Parties***

State Counsel

CORAM:
DR. JUSTICE B.R. SARANGI

ORDER
16.02.2022

Order No.
1

This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Panda, learned counsel for Petitioner and learned State Counsel for the Opposite Parties.

3. The petitioner has filed this writ petition seeking to quash the order of rejection letter dated 24.12.2021 under Annexure-4 and further seeks direction to the opposite parties to appoint him as per OCS (Rehabilitation Assistance) Rule, 1990.

4. 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 dated 24.12.2021 under Annexure-4 applying the provision in the 2020 Rule, which has even not seen the light of the day either on the date of death or on the date of submission of application for appointment under the Rehabilitation Assistance Scheme, 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 order of rejection letter dated 24.12.2021 under Annexure-4 sets aside the same and directs Opposite Party No.2 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, in view of the recent decision of the apex Court in the case of ***Ashis Awasthi*** (supra) and in the case of ***The Secretary to Govt. Department of Education (Primary) & Ors v. Bheemesh Alias Bheemappa*** (Civil Appeal No. 7752 of 2021).

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

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

Issue urgent certified copy as per rules.

(Dr. B.R. Sarangi)
Judge

Ashok

HIGH COURT
सत्यमेव जयते
ORISSA