

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 4301 of 2022

*Abhijit Sarkar*

.....

*Petitioner*

Mr. P.K. Mohapatra,  
Advocate

Vs.

*State of Odisha and others*

.....

*Opposite parties*  
*State Counsel*

**CORAM:**

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

**ORDER**

**15.02.2022**

**Order No.**

01

This matter is taken up by video conferencing mode.

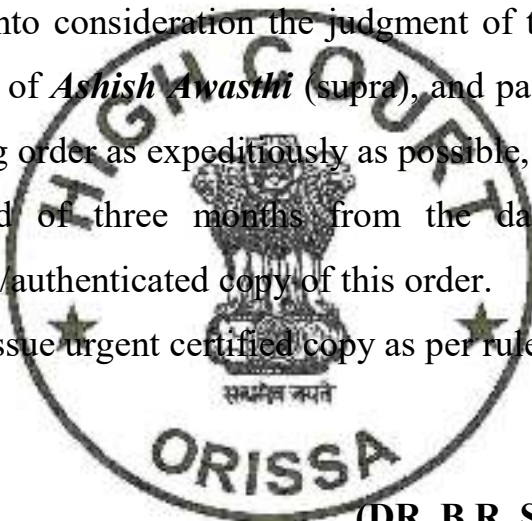
2. The petitioner has filed this writ petition challenging the order dated 01.01.2021 under Annexure-3, by which it has been stated that since the petitioner has scored 44 or less points in Part-I, he/she becomes ineligible for appointment under rehabilitation assistance and therefore further evaluation in Part-II is not required.

3. Mr. A.K. Das, learned counsel for the petitioner contended that since the father of the petitioner late Ashok Kumar Sarkar died on 10.05.2019 the case of the petitioner would have been considered under Odisha Civil Service (Rehabilitation Assistance) Rules, 1990 read with Amendment Rules, 2016. Instead of doing so, the case of the petitioner has been considered under Odisha Civil Service (Rehabilitation Assistance) Rules, 2020, which is arbitrary, unreasonable and contrary to the provisions of law. As such, while considering the case of the petitioner, the authority has

not taken into consideration the judgment of the apex Court in the case of *State of Madhya Pradesh v. Ashish Awasthi*, 2021(II) OLR (SC) 1072.

4. Having heard learned counsel for the parties and after going through the records, this Court finds that while considering the case of the petitioner, the judgment of the apex Court in the case of *State of Madhya Pradesh v. Ashish Awasthi*, 2021(II) OLR (SC) 1072 has not been taken into consideration by the authority. Therefore, the order dated 01.01.2021 under Annexure-3 is liable to be quashed and is hereby quashed. The matter is remitted back to the opposite party no.2 to reconsider the case of the petitioner once again taking into consideration the judgment of the apex Court in the case of *Ashish Awasthi* (supra), and pass a reasoned and speaking order as expeditiously as possible, preferably within a period of three months from the date of receipt of certified/authenticated copy of this order.

Issue urgent certified copy as per rules.



Alok

(DR. B.R. SARANGI)  
JUDGE