

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 4369 of 2022

Aswini Gouda

....

Petitioner

Mr. B.B. Mohanty, Adv.

-Versus -

State of Odisha & Ors.

....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

15.02.2022

Order No.

1

This matter is taken up through hybrid mode.

2. Heard Mr. B.B. Mohanty, learned counsel for Petitioner.
3. Against rejection of claim for compassionate appointment vide order/letter dated 27.01.2022 under Annexure-8, the petitioner has approached this Court by filing this writ petition.
4. Mr. B.B. Mohanty, learned counsel for Petitioner contended that the father of the petitioner died on 26.12.2018 while he was in employment. Therefore, the petitioner 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. 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 order 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 27.01.2022 vide Annexure-8 sets aside the same and directs Opposite Party No.4 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 communication/production of the authenticated copy of this order by the Petitioner.

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

(Dr. B.R. Sarangi)
Judge