

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (C) No.6154 of 2022

Sansodhan Das

....

Petitioner

Mr.S.K. Mishra, Advocate

-versus-

State of Orissa and others

....

Opposite Parties

Mr. K.K. Nayak, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

09.03.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The Petitioner has filed this writ petition seeking to quash the order of rejection dated 10.01.2022 under Annexure-7 and further seeks direction to the Opposite Parties to appoint him as per Orissa Civil Service (Rehabilitation Assistance Scheme) Rule, 1990 read with Amended Rules, 2016 and grant all financial and consequential service benefits from the date of appointment.
4. Looking to the date of death of the deceased involving whom appointment under the Rehabilitation Assistance Scheme is sought for and the date of application for appointment under the Rehabilitation Assistance Scheme, this Court finds, the issuance of rejection order vide Annexure-7 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 vs. Ashish Awasthi*, reported in *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 dated 10.01.2022, vide Annexure-7 passed by the Govt. of Odisha, Fisheries & ARD Department sets aside the same and directs Opposite Party No.1 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 Scheme) Rules, 1990 with the Amended Rules, 2016.

5. The entire exercise shall be completed within a period of one and half months from the date of production of certified copy of this order by the Petitioner.
6. With the aforesaid observation and direction, the writ petition stands disposed of.
7. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge