

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7124 of 2022

Debashish Mohanty

....

Petitioner

Mr. A.K. Chhatoi, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Y.S.P. Babu, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

30.03.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the State. Perused the record.
3. The petitioner has filed this writ petition seeking to quash the order of rejection letter dated 13.11.2020 under Annexure-8 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 whose 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 13.11.2020 under Annexure-8 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 vrs. 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 13.11.2020 under Annexure-8 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 of Orissa Civil Services (Rehabilitation Assistance) Rules, 1990, in view of the recent decision of the Apex Court in the case of ***Ashish Awasthi*** (supra) and in the case of ***The Secretary to Government Department of Education (Primary) & Ors vrs. Bheemesh Alias Bheemppa*** (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.

Urgent certified copy of this order be granted on proper application.

