

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7560 of 2022

Jhasaketan Bagartti

....

Petitioner

Mr. Jyotirmay Gupta, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

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

**CORAM:
JUSTICE A.K. MOHAPATRA**

Order No.

**ORDER
25.04.2022**

- 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 present writ petition has been filed by the petitioner with the following prayers:

“The petitioner therefore humbly prays that the Hon’ble Court may be graciously pleased to admit this case, issue notice to opposite parties for show cause and after hearing both the sides may be pleased to issue a writ of mandamus/certiorari by directing the opposite parties particularly O.P.No.2 to provide Job to the petitioner in any vacancy post as per his qualification on the basis of the application submitted before the O.P.No.3 under the Orissa Civil Service (Rehabilitation Assistance) Rules 1990 not in new rule-2020 taking into view of the past service of his late father as per format vide Annexure-4 series with cost.

And

Further be pleased to direct the O.P. No.2 i.e. Collector,

Bargarh to finalize the representation of the vide Annexure-6 within a stipulated period.

And

Further be pleased to pass any other order(s) or direction which this Hon'ble Court thinks fit and proper.”

4. It is submitted by learned counsel for the petitioner that the authorities are not considering the grievance of the petitioner for Rehabilitation Assistance Scheme Rules, 1990. He further submits that the petitioner apprehends that his application for the rehabilitation appointment may be rejected by adopting new Rules, 2020.

5. 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 14.01.2013 under Annexure-1 series 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*, 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 14.01.2013 under Annexure-1 series 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).

6. 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.

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

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

Jagabandhu

