

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7952 of 2022

Rabindra Harijan

....

Petitioner

Mr. D.R. Bhokta, Advocate

-versus-

***Registrar of Cooperative Societies
and others***

....

Opposite Parties

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

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

**ORDER
25.04.2022**

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.
3. It is submitted by learned counsel for the petitioner that although the death of the father of the petitioner, who was a Government employee, took place on 12.10.1997, the wife of the deceased Government employee was not in a position to join in service in place of her deceased husband under the OCS(RA) Rules and discharge the duties. However, son of the deceased was a minor at the time of death and after attaining the age of majority on 12.12.2014, he has submitted an application for appointment under the Rehabilitation Assistance Scheme. He further submits that such application is pending before the authority as of now. Learned counsel for the petitioner also submits that the petitioner has

complied with all the requirements as mandatory under the Rehabilitation Assistance Scheme.

4. Challenging the rejection order dated 20.12.2014 passed by the Secretary, Koraput Central Co-operative Bank Ltd., Koraput- Opposite Party No.2 under Annexure-3, the Petitioner has approached this Court by filing this writ petition and further prays to quash the letter under Annexure-3. It is submitted by learned counsel for the Petitioner that father of the Petitioner died in harness on 12.10.1997 leaving behind the present Petitioner as legal heir. Accordingly, the present Petitioner had submitted an application on 12.12.2014 for appointment under Rehabilitation Assistance Scheme under the Orissa Civil Service (Rehabilitation Assistance) Rule, 1990. However, it appears that the Authority under Annexure-3 rejected the application of the Petitioner taking into consideration the new set of rules issued by the Government vide Circular dated 17.02.2020. The law is no more res integra. As this Court finds, the decision of the Hon'ble Apex Court in the case of *State of Madhya Pradesh vs. Ashish Awasthi*, reported in **2021(II) OLR (SC) 1072**, wherein the Hon'ble 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, so far as the Rehabilitation Assistance Scheme is concerned. In such view of the matter, learned counsel for the Petitioner submits that the impugned order dated 20.12.2014 under Annexure-3 is not sustainable in law.

5. Learned counsel for the State on the other hand submits that let the Petitioner approached the Authority afresh by filing an application. In such event, the Authority shall consider the

application of the Petitioner in terms of the decision of the Hon'ble Apex Court in the case of *Ashish Awasthi* (supra) within a stipulated period of time.

6. Considering the submission made and the facts and circumstances of the present case, this Court is of the considered view that the order dated 20.12.2014 under Annexure-3 is unsustainable in law, therefore, the same is set aside. Further the Petitioner is permitted to approach the Authority within a period of two weeks from today. In that event, the Authority shall consider the case of the Petitioner in the light of the judgment of the Hon'ble Apex Court in the case of *Ashish Awasthi* (supra). The entire exercise shall be completed within a period of three months from the date of production of certified copy of this order.

7. With the above observation, the writ petition stands disposed of.

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

(*A.K. Mohapatra*)
Judge