

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8365 of 2022

Smruti Ranjan Tudu

....

Petitioner

Mr. Ayusman Mahanta, Advocate

-versus-

State of Odisha 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. The petitioner has filed this writ petition seeking to quash the letter dated 26.03.2021 under Annexure-7 and further seeks a direction to the Opposite Parties to appoint him under the provisions of the OCS(Rehabilitation Assistance) Rule, 1990.

4. Looking at the date of death of the deceased, the appointment under the Rehabilitation Assistance Scheme has arisen and the same is sought for. Considering the date of application for appointment under the Rehabilitation Assistance Scheme, this Court finds, the issuance of rejection letter vide Annexure-7 and applying the provision of the 2020 Rule, which had not even 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*** 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 26.03.2021 vide Annexure-7 sets aside the same and directs the Opposite Party No.2 to consider the case of the petitioner for appointment under the Rehabilitation Assistance Scheme in terms of the provisions contained in Orissa Civil Services (Rehabilitation Assistance) Rules, 1990 with the amended Rules, 2016, 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 Govt. Department of Education (Primary) & Ors. Vrs. Bheemesh Alias Bheemapa*** (Civil Appeal No.7752 of 2021) and Rule 2(vi) of the Orissa Civil Services (Rehabilitation Assistance) Rules, 1990.

5. The authorities are directed to conduct the entire exercise again which shall be completed within a period of one and half 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.

(***A.K. Mohapatra***)
Judge

