

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11171 of 2022

Sumit Burman

....

Petitioner

Mr. Laxmi Prasad Dwivedy, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. YSP Babu, AGA for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

06.05.2022

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 present writ petition has been filed by the Petitioner with the following relief:

“Under the aforesaid facts and circumstances, it is therefore, prayed that this Hon’ble Court may graciously be pleased to:

- i) quash the order dated 09.12.2021 and 13.12.2021 as at Annexure-9 and 10 and thereby direct the Opp. Parties to give appointment to the Petitioner as per his Application, dated 06.12.2017 in terms of the O.C.S. (R.A.) Rules, 1990 and Amendment Rules, 2016, within a stipulated period, as may be prescribed by this Hon’ble Court for the interest of justice;
- ii) pass such other order(s) or issue directions as may be deemed fit and proper in the bona fide interest of justice;

And for this act of kindness, the Petitioner as in duty bound shall ever pray.”

4. It is submitted by learned counsel for the Petitioner that he has submitted an application for appointment under the Rehabilitation Assistance Scheme on 06.12.2017, which is filed along with Annexure-2. Further, it is submitted that the application of the Petitioner has already been approved by the Screening Committee and Petitioner is eligible to be appointed under the R.A. Scheme. But in the meantime the old rule, i.e. O.C.S. (R.A.) Rules, 1990 was substituted by O.C.S. (R.A.) Rules, 2020. Therefore, the Authorities have written a letter to the Petitioner dated 31.12.2021 directing the Petitioner to make a fresh application under the new rule, i.e. O.C.S. (R.A.) Rules, 2020. It is further submitted that the conduct of the Opposite Parties asking the Petitioner to make fresh application in the new rule is not proper and justified. The Hon'ble Apex Court in the case of *State of Madhya Pradesh vs. Ashish Awasthi*, reported in **2021(H) OLR (SC) 1072**, has 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. The Hon'ble Apex Court further in the case of *Canara Bank and another vs. M. Mahesh Kumar*, reported in **(2015) 7 SCC 412**, has also reiterated the above facts. In spite of the above decisions of the Hon'ble Apex Court, the Opposite Parties are insisting for filing fresh application under the O.C.S. (R.A.) Rules, 2020.

5. Learned counsel for the State on the other hand submits that necessary direction may be issued to the Authorities in the matter.

6. Having heard learned counsel for the parties and taking into consideration the law laid down by the Hon'ble Apex Court, this Court is of the considered view that law is well settled that the date of application has to be taken into consideration for grant of Rehabilitation Assistance Scheme to a person.

7. Considering the submissions made and keeping in view the facts and circumstances of the case, this Court sets aside the order dated 09.12.2021 (Annexure-9) and letter dated 31.12.2021 (Annexure-10) and directs the appropriate Authorities to consider the application of the Petitioner for Rehabilitation Assistance appointment under the old R.A. Scheme as per the judgment of the Hon'ble Apex Court referred to herein above. It is further directed that the application of the Petitioner shall be considered and disposed of within a period of three months from the date of production of certified copy of this order.

8. With the above direction, the Writ Petition stands disposed of.

9. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge