

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11198 of 2022

Alex Tirkey

....

Petitioner

Mr. D.K. Mohanty, 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
12.05.2022

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.
3. The petitioner has filed this writ petition seeking to quash the order of rejection dated 06.04.2022 under Annexure-13 and further seeks a direction to the Opposite Parties to appoint him as per OCS(Rehabilitation Assistance) Rule, 1990 read with Amendment Rules, 2016 within a stipulated period.
4. Looking to the date of death of the deceased involving whom 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 vide Annexure-13 and 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 rejection order dated 06.04.2022 vide Annexure-13 sets aside the same and directs the Opposite Party No.3 to consider the case of the petitioner for appointment under the Rehabilitation Assistance Scheme in terms of the provision at 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).

5. The entire exercise 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