

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11320 of 2022

Sabita Barik

....

Petitioner

Mr.P.K.Mohapatra, Advocate

-versus-

State of Odisha & others

....

Opp.Parties

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

29.06.2022

Order No.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned Additional Government Advocate.
3. Against rejection of claim with regard to compassionate appointment vide order dated 8.10.2020 under Annexure-4 the Petitioner has approached this Court by filing the present writ petition.
3. Mr.Mohapatra, learned counsel for the Petitioner contended that though the husband of the Petitioner died on 19.01.2017 and as such Odisha Civil Service (Rehabilitation Assistance) Rules, 1990 & Amendment Rules, 2016 was in force, but because of laches on the part of the authority, now the case of the Petitioner has been considered under Odisha Civil Service (Rehabilitation Assistance) Rules, 2020, which is arbitrary, unreasonable and contrary to the provisions of law.

4. Learned Additional Government Advocate contended that since the Petitioner has not satisfied the requirement under the provisions contained in Odisha Civil Service (Rehabilitation Assistance) Rules, 1990 & Amendment Rules, 2016, her , his case has been rejected and, as such, consideration has been made under Odisha Civil Service (Rehabilitation Assistance) Rules, 2020.

5. Having heard learned counsel for the parties and after going through the records, this Court finds that while considering the case of the Petitioner, the judgment of the apex Court in the case of **State of Madhya Pradesh v. Ashish Awasthi, 2021(II) OLR (SC) 1072** has not been taken into consideration by the authority. Therefore, the order dated 28.10.2020 under Annexure-4 is liable to be quashed and is hereby quashed. The matter is remitted back to the Opposite Party No.1 to consider the case of the Petitioner once again taking into consideration the judgment of the apex Court in the case of **Ashish Awasthi (supra)** and pass a reasoned and speaking order as expeditiously as possible preferably within a period of three months from the date of receipt of certified copy of this order.

6. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra)
Judge