

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11349 of 2022

Bikash Kumar Bhyuan

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

19.05.2022

Order No

1. 1. This matter is taken up through Hybrid Mode.
2. 2. Heard learned counsel for the Parties.
3. 3. The petitioner has filed this writ petition seeking to quash the order of rejection dated 13.08.2021 under Annexure-6 and further seeks direction to the opposite parties to appoint him as per OCS (Rehabilitation Assistance) Rule, 1990 read with Amendment Rules, 2016 and grant all financial and consequential benefits following from the date of appointment.
4. 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-9 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 v. 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 13.08.2021 vide Annexure-6 sets aside the same and directs Opposite Party No.2 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 and also keeping in view the verification under Annexure-7.

5. The entire exercise shall be completed within a period of one & 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.

(Biraja Prasanna Satapathy)
Judge