

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.13451 of 2022

Debabrata Naik

....

Petitioner

Mr. Swapnil Roy, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

13.07.2022

Order No.

02.

I.A. No.8547 of 2022

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. The order dated 20.06.2022 passed in W.P.(C) No.13451 of 2022 is hereby recalled and the following modified order is passed afresh in the Writ Petition.
3. The present writ petition has been filed by the petitioner with the following prayers:

“It is therefore humbly prayed that this Hon’ble Court may graciously be pleased to admit the writ petition and issue Rule “NISI” to the Opp. Parties to show cause as to;

- (i) Why the action of the Opposite Parties in not providing compassionate appointment under the Rehabilitation Assistance Scheme to the petitioner in the facts and circumstances of the case will not be declared as illegal; and
- (ii) Why the Opposite parties will not be directed to provide compassionate appointment to the petitioner by taking appropriate steps in the matter within a stipulated time; and

And if the Opp. Parties do not show cause then the Rule

be made absolute by issuing appropriate writ/writs any other order as deem fit be passed;”

4. It is submitted by learned counsel for the petitioner that the father of the petitioner, who was working as Peon in the establishment of Executive Engineer, Mayurbhanj, M.I. Division, Baripada-Opposite Party No.5, died due to harness on 11.06.2018. Thereafter, the petitioner has submitted a representation for appointment under the Rehabilitation Assistance Scheme, 1990 on 9th November, 2018.

5. It is further submitted by learned counsel for the petitioner that although the petitioner is eligible for appointment under the Rehabilitation Assistance Scheme, the authorities had not taken any decision on the same as of now. Being aggrieved by such inaction, the petitioner has approached this Court by filing the present writ petition.

6. Considering the aforesaid submissions made by the parties, this Court disposes of the writ petition at the stage of admission with a direction to the Executive Engineer, Mayurbhanj, Minor Irrigation Division, Baripada-Opposite Party No.5 to consider the case of the petitioner for appointment under Rehabilitation Assistance Scheme in the light of 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.

7. The entire exercise shall be completed within a period of three months from the date of communication/production of certified copy of this order by the petitioner.

8. With the aforesaid observation and direction, the writ petition

stands disposed of. The I.A. is also disposed of accordingly.

Urgent certified copy of this order be granted on proper application.

(*A.K. Mohapatra*)
Judge

S.K.Parida

