

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.13957 of 2022**

***Ashish Kumar Satapathy***

***..... Petitioner***  
***Mr. S.B.Jena, Advocate***

***-versus-***

***State of Odisha and others***

***..... Opposite Parties***  
***Mr. P.K.Rout, A.G.A..***

**CORAM:**  
**JUSTICE A.K. MOHAPATRA**

**ORDER**  
**11.07.2022**

**Order No.**

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Government Advocate for the State.
3. The present writ petition has been filed by the petitioner with a prayer to quash the order of rejection dated 01.12.2020 under Annexure-5 and to give appointment under the Odisha Civil Service (Rehabilitation Assistance Rule, 1990 instead of Odisha Civil Service (Rehabilitation Assistance) Rule, 2020.
4. It is submitted by learned counsel for the petitioner that the father of the Petitioner, while was working as Peon under Tahasil Office, Mohana died on 04.05.2019 leaving behind his mother and sister. It is further submitted by learned counsel for the petitioner that although the application has been submitted by the petitioner after the death of the father of the Petitioner, the case of the Petitioner was not considered in spite of submission of relevant documents as required by the Authority.

5. Learned counsel for the petitioner further submits that let the Authority be directed to consider the case of the petitioner in the light of the judgment delivered by the Hon'ble Supreme Court of India in the case of *Indian Bank vs. Promila*, reported in (2020) 2 SCC 729, *State of Madhya Pradesh vs. Amit Shrivastava*, reported in (2020) 10 SCC 496, Hon'ble Apex Court in the case of *The Secretary to Govt., Department of Education (Primary) & Ors. vs. Bheemesh Alias Bheemappa (Civil Appeal No.7722 of 2021)* as well as in the case of *State of Madhya Pradesh vs. Ashish Awasthi*, reported in 2021(II) OLR (SC) 1072.

6. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this Court observes that non-consideration of the case of the Petitioner for appointment under rehabilitation assistance scheme is not sustainable in law and therefore, the order of rejection dated 01.12.2020 is liable to be quashed this Court looking to the date of death of the deceased and involving the appointment of the Petitioner under the Rehabilitation Assistance Scheme and the submission of application for appointment under the Rehabilitation Assistance Scheme, directs that the Collector-cum-District Magistrate, Gajapati, Opposite Party No.2 to look into the grievance of the Petitioner and dispose of the same in accordance with law, taking into account the law laid down in the judgments of the Hon'ble Supreme Court in the case of *Indian Bank vs. Promila*, reported in (2020) 2 SCC 729, *State of Madhya Pradesh vs. Amit Shrivastava*, reported in (2020) 10 SCC 496, Hon'ble Apex Court in the case of *The Secretary to Govt., Department of Education (Primary) & Ors. vs. Bheemesh Alias Bheemappa (Civil Appeal No.7722 of 2021)* as well as in the case of *State of Madhya Pradesh vs. Ashish Awasthi*, reported in 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 and pass a speaking and reasoned order by giving appointment to the Petitioner under the Rehabilitation Assistance Scheme, subject to availability of vacancies, within a period of three months from the date of production of certified copy of this order. Decision so taken be communicated to the Petitioner within a period of two weeks thereafter.

7. With the above direction, the writ petition stands disposed of.

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

RKS

