

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14618 of 2022

Saubhagya Kumar Behera

Petitioner
Mr. A.N.Patnaik, Advocate

-versus-

***CEO, TPCODL, Bhubaneswar &
others***

Opposite Parties
Mr. P.C.Das, A.S.C.

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

ORDER
13.07.2022

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 counsel for the State.
3. The present writ petition has been filed by the petitioner with a prayer to give him appointment under the Rehabilitation Assistance Scheme as per his qualification on account of death of his father, who was working as a Helper.
4. It is submitted by learned counsel for the petitioner that the father of the Petitioner namely, Golekha Behera, who was working as a Helper in the office of the Junior Engineer, Central Electricity Supply Utility of Odisha, Ranpur Section under the administrative control of the Executive Engineer (Electrical), Balugaon Electrical Division, Balugaon was died suddenly on 28.07.2016 leaving behind his wife, the only son the Petitioner and three married daughters.
5. It is submitted by the learned counsel for the Petitioner that

although the Petitioner submitted his application for compassionate appointment under Rehabilitation Assistance Scheme to the Opposite Party No.1 along with necessary documents, but till today the Opposite party No.1 sat tight over the matter. It is also submitted by the learned counsel for the Petitioner that now Central Electricity Supply Utility of Odisha has been taken over by the Tata Power Central Odisha Distribution Ltd.

6. 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.

7. 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, 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 Chief Executive Officer, Tata Power Central Odisha Distribution Ltd., Opposite Party No.1 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 two 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.

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

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

(*A.K. Mohapatra*)
Judge