

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.3895 of 2022

S. Santosh Kumar Swamy ***Petitioner***

Mr. Basudev Mishra, Advocate

-versus-

Sanjib Chopra, Principal Secretary, ***Opposite Parties***
Home Department, Bhubaneswar
and others

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

08.07.2022

Order No.

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. In connected matter, the State Government has preferred writ appeal and the Division Bench of this Court admitted and confirmed the same. However, in the present matter, State has not preferred any writ appeal.
4. It is submitted by learned counsel for the petitioner that a similar matter involving identical issue has been carried to Hon'ble Supreme Court in the case of ***Malaya Nanda Sethy vrs. State of Orissa and others***. The Hon'ble Supreme Court in its judgment dated 20.05.2022 in Civil Appeal No. 4103 of 2022 (Arising out of S.L.P.(Civil) No. 936/2022) disposed of the Civil Appeal with the following direction:-

“9. Before parting with the present order, we are constrained to observe that considering the object and purpose of appointment on compassionate grounds, i.e., a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service and the basis or policy is immediacy in rendering of financial assistance to the family of the deceased consequent upon his untimely death, the authorities must consider and decide such applications for appointment on compassionate grounds as 10 per the policy prevalent, at the earliest, but not beyond a period of six months from the date of submission of such completed applications.

We are constrained to direct as above as we have found that in several cases, applications for appointment on compassionate grounds are not attended in time and are kept pending for years together. As a result, the applicants in several cases have to approach the concerned High Courts seeking a writ of Mandamus for the consideration of their applications. Even after such a direction is issued, frivolous or vexatious reasons are given for rejecting the applications. Once again, the applicants have to challenge the order of rejection before the High Court which leads to pendency of litigation and passage of time, leaving the family of the employee who died in harness in the lurch and in financial difficulty. Further, for reasons best known to the authorities and on irrelevant considerations, applications made for compassionate appointment are rejected. After several years or are not considered at all as in the instant case.

If the object and purpose of appointment on compassionate grounds as envisaged under the relevant policies or the rules have to be achieved then it is just and necessary that such applications are considered well in time and not in a tardy way. We have come across cases where for nearly two decades the controversy regarding the 11 application made for compassionate appointment is not resolved. This consequently leads to the frustration of the very policy of granting compassionate appointment on the death of the employee while in service. We have, therefore, directed that such applications must be considered at an earliest point of time. The consideration must be fair, reasonable

and based on relevant consideration. The application cannot be rejected on the basis of frivolous and for reasons extraneous to the facts of the case. Then and then only the object and purpose of appointment on compassionate grounds can be achieved.”

5. After the aforesaid categorical pronouncement of law governing the subject matter involved in the present case, it is observed by this Court that due to administrative slackness many deserving cases under the OCS Rehabilitation Appointment Rules are kept pending for years in the State of Odisha also. Further, in view of a series of judgments of the Hon’ble Supreme Court nothing remains to be adjudicated any more.

6. Considering the submissions made and keeping in view the observation of the Hon’ble Supreme Court of India, this Court grants another opportunity to the contemnors/opposite parties to implement the order dated 07.07.2021 passed in W.P.(C) No.17769 of 2021 by this Court within a period of two months positively on the production of certified copy of this order.

7. With the aforesaid observation/direction, the CONTC stands disposed of.

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

(A.K. Mohapatra)
Judge