

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15207 of 2022

Goutam Nayak

....

Petitioner

Mr. Trilochan Nanda, Advocate

-versus-

State of Odisha and another

.... ***Opposite Parties***

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

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

**ORDER
24.06.2022**

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. It is submitted by learned counsel for the petitioner that the Petitioner has approached this Court by filing this writ petition with a prayer to direct the Revenue Divisional Commissioner, Southern Division, Odisha, Berhampur, opposite party No.2 to reconsider the case for appointment of the petitioner as Junior Assistant under Rehabilitation Assistance Scheme.
4. It is submitted by learned counsel for the Petitioner that the father of the Petitioner, who was working as Junior Diarist in the Office of the RDC (SD), Odisha, Berhampur died on 21.09.2010 leaving behind his wife, son, the Petitioner and daughter. The Petitioner, who is the son of the deceased employee submitted his application seeking appointment under rehabilitation assistance scheme on 28.05.2015.

However, learned counsel for the petitioner submits that a direction may be given to the Authority to consider the case of the petitioner afresh under the relevant Rules i.e. Orissa Civil Service (Rehabilitation Assistance) Rule, 1990, which was in force when the father of the petitioner died while in service.

5. The law on the subject is no more res integra. As this Court finds, the decision of the Hon'ble Apex Court in the case of *State of Madhya Pradesh vs. Ashish Awasthi*, reported in **2021(II) OLR (SC) 1072**, wherein the Hon'ble 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, so far as appointment under the Rehabilitation Assistance Scheme is concerned.

6. Learned counsel for the State on the other hand submits that let the Petitioner approach the Authority afresh by filing an application. In such event, the Authority shall consider the application of the Petitioner in terms of the decision of the Hon'ble Apex Court in the case of *Ashish Awasthi* (supra) within a stipulated period of time.

7. Considering the submission made and in view of the facts and circumstances of the present case, this Court is of the considered view that the order of rejection of application of the Petitioner for appointment under Rehabilitation Assistance Scheme dated 14.12.2021 under Annexure-1 is erroneous and the same is set aside. It is further directed that the Petitioner to approach the Authority within a period of two weeks from today for appointment under Rehabilitation Assistance Scheme. In that event, the Authority shall consider the case of the Petitioner in the light of the judgment of the Hon'ble Apex Court in the case of *Ashish Awasthi* (supra). The entire exercise shall be completed within a period of three months from the date of production of certified copy of this order.

8. With the above observation, the writ petition stands disposed of.
9. Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge

RKS

