

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15327 of 2022

Sri Prayas Chandra Mohanty ***Petitioner***
Mr. D.K.Mohanty, Advocate

-versus-

State of Odisha and others ***Opposite Parties***
Mr. YSP Babu, AGA for State

CORAM:
JUSTICE A.K. MOHAPATRA

ORDER
07.07.2022

Order No.

02.

I.A. No.8857 of 2022

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an application for modification of order dated 27.06.2022.
3. Heard learned counsel for both the sides.
4. Considering the submissions made and the grounds taken in the application, the I.A. is allowed and order dated 27.06.2022 stands recalled. The following order is passed while disposing of the writ petition.
5. The Petitioner has filed this writ petition seeking to quash the order of dated 16.06.2022, passed by the Commandant, O.S.A.P., 4th Bn. Rourkela, Opposite Party No.3 under Annexure-10 and direct fresh enquiry and evaluation in Part-I of Form-D as per the provision of Orissa Civil Service

(Rehabilitation Assistance) Rules, 2020 within a stipulated period of time.

6. Looking to the date of death of the deceased, which was occurred on 01.09.2017, involving whom appointment under Rehabilitation assistance Scheme is sought for and the date of application for appointment under the Rehabilitation Assistance Scheme, this Court finds, the issuance of rejection letter vide Annexure-10 and applying the provision in the 2020 Rule, which has even not seen the light of the day either on the date of death or on the date of submission of application for appointment under the Rehabilitation Assistance Scheme, remains contrary to the decision of the Apex Court in the case of ***State of Madhya Pradesh vs. 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. This Court, therefore, interfering with the rejection order dated 16.06.2022 vide Annexure-10 sets aside the same and directs the Opposite Party No.3 to consider the case of the Petitioner for appointment under Rehabilitation Assistance Scheme in terms of the provision at Orissa Civil Services (Rehabilitation Assistance) Rules, 1990 with the amended Rules, 2016, in view of the recent decision of the Apex Court in the case of ***Ashish Awasthi*** (supra) and in the case of ***the Secretary to Govt., Department of Education (Primary & Ors. Vs. Bheemesh alias Bheemapa*** (Civil Appeal No.7752 of 2021).

7. The entire exercise shall be completed within a period of one and half 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.
9. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge

u.k.sahoo

