

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15348 of 2022

Dibya Jyoti Rout

.... ***Petitioner***
Mr. Pratik Dash, Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***
Mr. Y.S.P. Babu, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

04.07.2022

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. Perused the record.

3. The present writ petition has been filed by the petitioner with the following prayers:

“It is therefore prayed that your Lordships would graciously be pleased to issue rule NISI calling upon the opposite parties to show cause why:-

(i) The action of the Opp. Parties in not allowing the petitioner to join in a post under Class-IV category shall not be declared illegal and arbitrary;

(ii) A specific direction shall not be issued to the Opp. Party No.2 to consider the application form dtd. 04.08.2016 under Annexure-4 and dispose of the same by allowing the petitioner to join in a post under Class-IV category;

(iii) And or pass such other order(s), direction(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case;”

4. It is submitted by learned counsel for the petitioner that the father

of the petitioner, who was working as Tube Well Mechanic in the establishment of the Executive Engineer (RWS&S) Division, Sundargarh-Opposite Party No.2, died due to harness on 10.04.2016. Thereafter, the petitioner has submitted a representation for appointment under the Rehabilitation Assistance Scheme, 1990 on 05.01.2017.

5. It is further submitted by learned counsel for the petitioner that although the petitioner is eligible for appointment under the Rehabilitation Assistance Scheme, the authorities had not take any decision the same as of now. Being aggrieved by such inaction, the petitioner has approached this Court by filing the present writ petition.

6. Learned counsel for the State submits that he has no objection, if a direction is given to the authorities to consider the grievance petition of the petitioner in accordance with law within a stipulated period of time.

7. Considering the aforesaid submissions made by the parties, this Court disposes of the writ petition at the stage of admission with a direction to the Executive Engineer (RWS&S) Division, Sundargarh-Opposite Party No.2 to consider the case of the petitioner for appointment under Rehabilitation Assistance Scheme in the light of 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 11.04.2017 vide Annexure-7 sets aside the same and directs the Opposite Party No.2 to consider the case of the petitioner for appointment under the 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. Vrs. Bheemesh Alias Bheemapa* (Civil Appeal No.7752 of 2021).

8. The entire exercise shall be completed within a period of three months from the date of communication/production of certified copy of this order by the petitioner.

9. With the aforesaid observation and direction, the writ petition stands disposed of.

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

