

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15436 of 2022

Sasank Shekhar Rath

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

20.07.2022

Order No

01.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. A.C. Behera, learned counsel for the Petitioner and Mr. A.P. Das, learned ASC appearing for the Opp. Parties.

3. The Petitioner is aggrieved by the order dtd.11.05.2022 passed by O.P. No.4 under Annexure-5, wherein the claim of the Petitioner for his appointment under the provision of the Rehabilitation Assistance Scheme has been rejected taking into account the guideline issued on 17.02.2020.

4. It is submitted that the Petitioner's father while working under the Opp. Party-Bank died on 05.03.2018 and the Petitioner being the son of the said deceased employee made his application for appointment under the provision of the Rehabilitation Assistance Scheme.

5. It is further submitted that on receipt of such application, Bank vide letter dtd.17.05.2019 under Annexure-2 directed the Petitioner

to provide some further documents and the Petitioner vide letter dtd.16.09.2019 produced all those documents as desired under Annexure-2. It is further submitted that thereafter no decision was taken and ultimately the claim of the Petitioner was rejected relying on the Govt. notification dtd.17.02.2020.

6. Mr. Behera, learned counsel for the Petitioner submitted that since the father of the Petitioner has died on 05.03.2018, the guideline/rules framed by the Govt. vide notification dtd.17.02.2020 cannot be made applicable to the claim of the Petitioner. The Rule prevalent at the time of death of the deceased employee should be the consideration.

7. Mr. Behera, learned counsel for the Petitioner brought to the notice of this Court the decision of the Hon'ble Apex Court passed in the case of Malaya Nanda Sethy Vs. State of Odisha & Ors. In the said decision Hon'ble Apex Court has clearly held that the rules prevalent at the time of the death of the employee should be the consideration and not the subsequent rules.

8. In view of such order passed by the Hon'ble Apex Court, this Court finds that the claim of the Petitioner since has been rejected basing on subsequent circular/notification dt.17.02.2020, the same cannot be sustained in the eye of law. This Court accordingly has got no hesitation in quashing the same and directs the Opp. Party-Bank to take a fresh decision taking into consideration the Rules prevailing at the time of death of the deceased employee and by following direction of the Hon'ble Apex Court in the above noted case.

9. Opp. Party-Bank shall take a fresh decision in the light of the order passed by the Hon'ble Apex Court within a period of two (2) months from the date of receipt of this Order. If on such consideration the Petitioner is found eligible then appropriate order of appointment to be issued in his favour.

10. The writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha

