

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15557 of 2022

Silpita Nayak

....

Petitioner

Mr. Karunakar Rath, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

08.07.2022

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 Additional Standing Counsel for the State.
3. The present writ petition has been filed by the petitioner with a prayer to give her compassionate appointment under the Rehabilitation Assistance Scheme.
4. It is submitted by learned counsel for the petitioner that the Petitioner's husband, who was after duly appointed working as a Junior Clerk in the Office of the Executive Engineer, Potteru Canal Division No.3, Bhubanapalli expired on harness due to an accident taken place on 09.09.2016 and is covered under the OCS(RA) Rules, 1990. It is further submitted by learned counsel for the petitioner that although the application has been submitted by the petitioner on 30.01.2017 for compassionate appointment under OCS(RA) Rule, 1990, the case of the Petitioner was not considered in spite of submission of relevant documents as required by the Authority.

5. Learned counsel for the petitioner further submits that let the Authority be directed to consider the case of the petitioner in the light of the judgment delivered by the Hon'ble Supreme Court of India in the case of *Indian Bank vs. Promila*, reported in (2020) 2 SCC 729, *State of Madhya Pradesh vs. Amit Shrivastava*, reported in (2020) 10 SCC 496, Hon'ble Apex Court in the case of *The Secretary to Govt., Department of Education (Primary) & Ors. vs. Bheemesh Alias Bheemappa (Civil Appeal No.7722 of 2021)* as well as in the case of *State of Madhya Pradesh vs. Ashish Awasthi*, reported in 2021(II) OLR (SC) 1072.

6. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this Court observes that delayed consideration of the case of the Petitioner for compassionate appointment under rehabilitation assistance scheme is not sustainable in law and therefore, this Court looking to the date of death of the deceased employee, involving the appointment of the Petitioner under the Rehabilitation Assistance Scheme and the submission of application for appointment under the Rehabilitation Assistance Scheme, directs that the Engineer-in-Chief, Water Resource Department, Odisha, Bhubaneswar, Opposite Party No.2 to look into the grievance of the Petitioner and dispose of the same in accordance with law, taking into account the law laid down in the judgments of the Hon'ble Supreme Court in the case of *Indian Bank vs. Promila*, reported in (2020) 2 SCC 729, *State of Madhya Pradesh vs. Amit Shrivastava*, reported in (2020) 10 SCC 496, Hon'ble Apex Court in the case of *The Secretary to Govt., Department of Education (Primary) & Ors. vs. Bheemesh Alias Bheemappa (Civil Appeal No.7722 of 2021)* as well as in the case of *State of Madhya Pradesh vs. Ashish Awasthi*, reported in 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 and pass a speaking and reasoned order by giving appointment to the Petitioner under the Rehabilitation Assistance Scheme, subject to availability of vacancies, within a period of two months from the date of production of certified copy of this order. Decision so taken be communicated to the Petitioner within a period of two weeks thereafter.

7. With the above direction, the writ petition stands disposed of.

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

RKS

