

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16232 of 2022

Laxmipriya Sethi

....

Petitioner

Mr. Mihir Kanta Rath, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

11.07.2022

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 employment under the Rehabilitation Assistance Scheme as per Rules, 1990.
4. It is submitted by the learned counsel for the Petitioner that the father of the Petitioner died in harness on 22.08.2016. Accordingly application under Rehabilitation Assistance Scheme has been filed on 09.03.2017 by the Petitioner. It is further submitted by the learned counsel for the Petitioner that the case of the Petitioner was considered and her name was short listed for appointment under Rehabilitation Assistance Scheme. However, the authorities have rejected the claim of the Petitioner taking resort to new Rule, 2020. It is further submitted by the learned counsel for the Petitioner that in view of the judgment of 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) 107***, the petitioner's case is required to be considered under 1990 Rules. Therefore, rejection order dated 01.11.2021 under Annexure-7 is illegal and arbitrary not conformity with the law laid down by the Hon'ble Supreme Court in the aforesaid case.

5. On the other hand, learned Additional Standing Counsel submits that let the matter be remanded to the authority to consider the claim of the Petitioner afresh in the light of the judgment of the Hon'ble Supreme Court (supra) within a stipulated period of time.

6. Considering the aforesaid submissions of the respective parties, this Court disposes of the writ application at the stage of admission by setting aside the impugned order under Annexure-7 and further directs the Opposite Parties to reconsider the application of the Petitioner under OCS(RA) Rule, 1990 in the light of the judgment of the Hon'ble Supreme Court referred to herein above within a period of three months from the date of production of certified copy of this order. In the event the Petitioner is found eligible she will be given appointment within the aforesaid time.

7. With the aforesaid observation the writ application stands disposed of.

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

(A.K. Mohapatra)
Judge