

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16484 of 2022

Jayant Kumar Panda

....

Petitioner

Mr. B.S.Tripathy (1), 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 challenging the impugned letter under Annexure-8 series issued by the A.I.G.of Police, Vigilance, Odisha, Cuttack, (Opposite Party No.3) wherein the Opposite Party No.2 has rejected the application of the petitioner for Rehabilitation Assistance Scheme.
4. It is submitted by learned counsel for the petitioner that the unmarried elder brother of the Petitioner late Digambar Panda while working as Senior assistant in the Office of the Directorate of Vigilance, Cuttack died in harness on 22.04.2012 leaving behind the Petitioner as his sole surviving brother and his mother namely Satyabhama Panda as his legal heirs and successors specially when the father of the Petitioner Late Pitambar Panda was pre-deceased and is covered under the OCS(RA) Rules, 1990. It is further

submitted by learned counsel for the petitioner that although the application for appointment under Rehabilitation Assistance Scheme has been submitted by the petitioner on 16.04.2013, but the Authority sat over the matter and finally by virtue of the impugned order under Annexure-8 series, the same came to the light.

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 the letter under Annexure-8 series is not sustainable in law and therefore, the same is hereby quashed and looking to the date of death of the deceased, involving the appointment of the Petitioner under the Rehabilitation Assistance Scheme and the date of submission of application for appointment under the Rehabilitation Assistance Scheme, this Court directs that the D.G.-cum-I.G. of Police (Vigilance), Odisha, Cuttack, 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 three 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.

(*A.K. Mohapatra*)
Judge