

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17479 of 2022

Sanjaya Kumar Jayasingh

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

28.07.2022

Order No

- 1.** This matter is taken up through Hybrid Mode.
- 2.** Heard learned counsel for Petitioner and learned counsel for the State-Opposite Parties.
- 3.** On the oral prayer made by Mr. Jena, learned counsel for the Petitioner, he is permitted to implead Secretary, Orissa State Ware Housing Corporation, Bhubaneswar as Opposite Party No.4 in Court today.
- 4.** The Petitioner is aggrieved by the communication issued by the Opposite Party No.4 on 21.03.2022 under Annexure-8 in directing the Petitioner to make a fresh application in terms of the new guidelines issued by the Government on 17.02.2020.
- 5.** It is submitted that the Petitioner's father died while in service on 11.09.2016 and the Petitioner made his application within the time.
- 6.** It is further submitted that vide Annexure-5, the Petitioner was also asked to provide some documents and further information for consideration of his case. But it is submitted

that instead of considering the application as per the prevailing rule, which was in force, the Petitioner vide the impugned communication has been directed to make a fresh application for its consideration in accordance with the new guidelines issued on 17.02.2020.

7. It is submitted that since the Petitioner's father has died much prior to the issuance of the said guidelines on 17.02.2020, his case should have been considered as per the prevailing guidelines.

8. Mr. Jena also brought to the notice of this Court the decision passed by this Court in a similar matter in W.P.(C) No.32508 of 2021 under Annexure-10.

9. Considering the submissions made by Mr. Jena, this Court prima facie finds that the Opposite Parties instead of considering the application as per the rules prevailing at the time of death of the father has directed the Petitioner to make a fresh application and for its considerations in accordance with new guidelines issued on 17.10.2020, which was not in existence at the time of making application. Therefore, following the decision of the Hon'ble Apex Court in the case of **Indian Bank and others v. Promila and another** reported in (2020) 2 Supreme Court Cases 729 as well as the recent decision of this Hon'ble Apex Court in the case of **Malaya Nanda Sethy**, this Court is constrained to quash the impugned notice under issued Annexure-8. While quashing the same, this Court directs the Opposite Party-Corporation to consider the application of the Petitioner for his appointment under the R.A. Scheme in accordance with the rules prevailing at the time of death to the deceased employee. The entire exercise shall be made within a period of three months from the date of receipt of this order. Ultimately, if it is found that the petitioner is eligible, necessary

order of appointment be issued in his favour within a further period of one month.

10. With the aforesaid observations and directions, the WPC is disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

