

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17747 of 2022

Riten Banchhor

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

26.07.2022

Order No

01.

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

2. Heard learned counsel for the Petitioner and the learned Additional Government Advocate.

3. Perused the writ application as well as the documents annexed to the writ application.

4. The present writ application has been filed challenging the order dated 29.03.2022 under Annexure-5, whereunder the Chief Conservator of Forest, Rourkela Circle, Rourkela has intimated the Petitioner that his case for appointment under Rehabilitation Assistance Scheme was considered and it was found that the Petitioner does not possess the eligibility criteria as specified under Rule 6(6)(9) & (10) of OCSS (R.A.) Rules, 2020 as communicated vide Government in G.A. & P.G. Department Notification No.5651 dated 17.02.2020. Being aggrieved by such decision, the Petitioner has approached this Court by filing the present writ application. It is

further prayed by the Petitioner for a direction to Opposite Party No.2 to provide employment to the Petitioner under R.A. Scheme.

5. It is submitted by the learned counsel for the Petitioner that the father of the Petitioner died on 02.09.2019. After the demise of his father he had applied for appointment under RA. Scheme under Old Rule i.e. OCS (R.A.) Rules, 1990. However, he further submits that from the impugned order under Annexure-5, it is found that the authority have considered the case of the Petitioner under new Rule i.e. the Rule of the year 2020. It is further submitted by the learned counsel for the Petitioner that the dispute with regard to applicability of the Rule for appointment under R.A. Scheme has been set at rest by the Hon'ble Supreme Court in the matter of Indian Bank and others v. Promila and another (2020) 2 Supreme Court Cases 729 wherein it has been specifically held by the Hon'ble Supreme Court that compassionate appointment must be decided only on the basis of relevant scheme prevalent on date of demise of employee. In such view of the matter the learned counsel for the Petitioner submits that the application of the Petitioner should have been considered under the 1990 Rules instead of Rule of the year 2020.

6. Learned Counsel appearing for the State does not dispute the aforesaid proposition of law. He further submits that if the matter is remanded to the authority, he/she shall consider the case of the Petitioner in the light of the judgment in Indian Bank and others v. Promila and another (supra) within a stipulated period of time.

7. Having heard learned counsel for the parties and after going through the judgment relied upon by the learned counsel for the Petitioner, this Court disposes of the writ application at the stage of

admission by setting aside the impugned order dated 16.08.2021 & 29.03.2022 under Annexue-5 and further the Opposite Party No.2 is directed to consider the case of the Petitioner in the light of the judgment referred to herein above. The Opposite Party No.2 shall do well to consider the case of the Petitioner as directed herein above and shall complete the entire exercise within a period of two months from the date of production of a certified copy of this order. The final decision shall be communicated to the Petitioner within two weeks thereafter. Let a copy of the judgment in Indian Bank case (supra) along with a certified copy of this order be placed before the appropriate authority by the Petitioner within a period of two weeks from today.

8. With the aforesaid observation, the writ application stands disposed of.

9. Issue urgent certified copy as per Rules.

(Biraja Prasanna Satapathy)
Judge

Sneha