

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 15488 of 2018

Puspalata Behera & another* *Petitioners

Mr. Gyanaloka Mohanty, *Advocate*

-versus-

OUAT, Bhubaneswar & others* *Opp. Parties

*Mr. Ashok Mishra, Sr. Advocate along
with Mr. M.K. Parida for opposite party-
University*

**CORAM:
JUSTICE M.S. SAHOO**

**ORDER
21.04.2022**

Order No.

06.

1. This matter is taken up through hybrid mode.
2. The writ petition has been filed for issuance of direction to opposite parties to give compassionate appointment to the petitioner no.1 under the Rehabilitation Assistance (R.A.) Scheme.
3. The father of petitioner no.1 was working in the establishment of opposite parties 1 and 2, Odisha University of Agriculture & Technology, Bhubaneswar in the Department of P.B.G.C.A., ultimately after getting several promotions while working as Asst. Registrar, due to his ill-luck was inflicted by kidney disease, diagnosed on 01.09.2017. As his health condition deteriorated, he filed representation on 12.04.2008 through the petitioners to get retirement on the ground of ill-health and to appoint the petitioner no.1 herein under the Rehabilitation Assistance Scheme.

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4. The further uncontroverted facts as indicated in the writ petition and not disputed in the counter affidavit are that the father of the petitioner no.1 passed away on 01.09.2008 leaving the dependant family members including the petitioners. There was delay in granting the retiral and death benefits of the deceased employee to the family members till it was granted in February, 2010, thereafter the application of petitioner no.1 (along with the consent of the mother guardian (petitioner no.2) not to work under the Rehabilitation Assistance) with other relevant documents was submitted for consideration of petitioner no.1 for Rehabilitation Assistance, vide application dated 20.05.2009. Petitioner no.1 again approached on 24.10.2016 reminding the authorities. On 26.12.2016 the petitioner applied under the provisions of RTI Act seeking some information.

5. It is asserted that from RTI information, petitioners became aware that letter to the Collector, Khurda for issuance of certificate regarding distress condition of the family was not sent by the Registrar of the University. However, subsequently, there was enquiry and by letter dated 07.04.2017, the petitioners were requested to produce the relevant documents. Ultimately, the petitioners are aggrieved by letter dated 04.09.2017 (Annexure-8) issued by the Department of Agriculture and Farmer's Empowerment stating that petitioner no.1 is ineligible for Rehabilitation Assistance Scheme.

6. Opposite parties 1 and 2 have filed counter affidavit dated 09.09.2020 and petitioner no.1 has filed rejoinder dated 10.01.2022 in response to the counter which form part of the record and are considered for deciding the writ petition.

7. Learned counsel for the petitioners draws attention to the rejoinder affidavit filed on behalf of the petitioner no.1 in response to the counter filed by opposite party no.2, to submit that the petitioner no.1 has become single due to the judgment in Civil Proceeding No. 285 of 2013 dissolving the marriage between the petitioner no.1 and her husband – Binaya Kumar Majhi.

It is further submitted that the petitioner no.2-mother of petitioner no.1 breathed her last on 27.12.2020 (Annexure-10).

8. The learned Senior Counsel appearing for the University submits that there has been complete change in the scenario at present, and the brother of the petitioner no.1 who was employed under the University after regular selection has passed away on 20.05.2021 (Annexure-11). These events make the petitioner the sole surviving persons to be considered for appointment under Rehabilitation Assistance.

9. In considered opinion of this Court, the grounds for rejection of the petitioner no.1 to be appointed under Rehabilitation Assistance (mentioned in the para-3 of the counter affidavit) are untenable inasmuch as marriage of the daughter cannot be a ground for rejecting her claim for

appointment under the Rehabilitation Assistance Scheme as against the job of her father. Further, it has been held by this Court by order dated 11.08.2021 passed in W.P.(C) No.28966 of 2011 in the case of **Urbashi Sahoo vs. State of Orissa and another**. Relying on the earlier decision of this Court in the case of **Bibhuti Bhusan Patnaik vs. State of Odisha and others** reported in **2017 (II) ILR-Cut 896**, the daughter cannot be denied employment on the ground that the Orissa Civil Services (Rehabilitation Assistance) Rules, 1990 provides only for employment of the wife of the deceased employee or son. However, in the present case, the above issues have become academic in view of the passing away of the mother of the petitioner no.1 as well as her brother who was employed in the University. The applicant had applied in the year 2009 i.e. 25.10.2009 and in the meantime almost 13 years have already passed.

10. It is directed that in the interest of justice, the age of the petitioner no.1 shall not be a factor to consider her for a suitable job under the Rehabilitation Assistance Scheme by the University as per petitioner's qualification and in view of the fact that her application was rejected as informed to her by letter No.38904 dated 25.07.2009 only on the issue of her getting married and a married daughter not being entitled for employment under Rehabilitation Assistance Scheme.

11. The writ petition is allowed to the aforesaid extent.

Issue urgent certified copy as per rules.

This order be uploaded.

(M.S. Sahoo)
Judge

