

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 16122 of 2018

State of Odisha and others

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Petitioners

*Mr.A.K. Mishra,
Addl. Government Advocate*

Vs.

Chandrabhanu Sahu

.....

Opposite Party

Ms. S. Panda, Adv.

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

29.03.2022

Order No.

12.

This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Mishra, learned Addl. Government Advocate appearing for the State-petitioners and Ms. S. Panda, learned counsel for the opposite party.

3. This is an unfortunate case where the legitimate claim of the opposite party for getting employment under OCA (RA) Rules, 1990 has been denied. Challenging the action of the authority, the petitioner approached the State Administrative Tribunal, Cuttack Bench, Cuttack by filing O.A. No. 3182 (C) of 2010, which was disposed of, vide order dated 08.04.2016, by holding that the case of the opposite party deserves consideration as per Rule-16(1) and (2) of the OCS (RA) Rules, 1990, and that since the provision under Rehabilitation Assistance Rules is beneficial in nature and to mitigate hardship due to death of bread earner, it is a fit case where the present petitioners ought to have resorted to the provisions under Rule-16(1) and (2) of the OCS (RA) Rules, 1990, directed the present petitioners to consider the grievance of the opposite party for appointment under OCS (RA) Rules, 1990

resorting to the provisions under Rule-16(1) and (2), within a period of three months. Though the order was passed on 08.04.2016, but the instant writ petition was filed by the State-petitioners after more than two years, i.e., on 29.08.2018 and admittedly there is delay and laches on the part of the State-petitioners in approaching this Court. Thereby, in view of the judgment of this Court in the case of ***State of Odisha v. Surama Manjari Das*** (W.P.(C) No. 15763 of 2021 dismissed on 16.07.2021), this writ petition is not maintainable.

4. Otherwise on merits also, it appears that the father of the opposite party, while in employment, died on 08.03.1996. Thereafter, the mother of the opposite party filed an application in the year 1997 for appointment of her son (opposite party) and the same was rejected, vide order dated 11.09.2000, on the ground that he does not fulfill the eligibility criteria as laid down under Rule-9(7) of the OCS (RA) Rules, 1990. Against the said order, the opposite party preferred O.A. No. 386 (C) of 2006, which was disposed of, vide order dated 08.07.2009, directing the present petitioners to consider the representation of the opposite party for grant of compassionate appointment, in accordance with Rules, within a period of three months. But subsequently, vide order dated 18.12.2009, again the application of the opposite party was rejected by the Collector, Kandhamal stating therein that though the date of birth of the opposite party is 01.07.1984, but he has applied for appointment under rehabilitation assistance scheme on 10.03.1997 and, thereby, he does not fulfill the criteria as laid down in Rule-9(7) of the O.C.S. (RA) Rules, 1990 and, as such, the fact of rejection was communicated to the opposite party, vide letter dated 11.09.2000. Against the said order of rejection, the opposite party preferred O.A. No. 3182 (C) of 2010 and the

tribunal, after giving due opportunity of hearing to all the parties, disposed of the said original application, vide order dated 08.04.2016, directing the present petitioners to consider the application of the opposite party for appointment as per Rule-16(1) and (2) of the OCS (RA) Rules, 1990 within a period of three months. The State-petitioners challenged the said order before this Court only on 29.08.2018, after more than two years. But fact remains, the State-petitioners have not taken due care while considering the application of the opposite party for compassionate appointment. As such, the initial rejection was made due to the fact that the opposite party had not attained the age of majority. But, thereafter, when he attained the age of majority and filed the application for compassionate appointment, the same was also rejected stating that he does not fulfill the conditions as laid down under Rule-9(7) of the O.C.S. (RA) Rules, 1990. The unfortunate part of the thing is that the sole bread earner of the family died in the year 1996 and even though his wife made application in the year 1997, nothing was communicated from the side of the State-petitioners with regard to extension of benefit of compassionate appointment under rehabilitation assistance scheme to the opposite party, rather the same was rejected without assigning any reason, after three years, i.e., on 11.09.2000. The State, being a model employer, was expected to act promptly by intimating the bereaved family seeking compassionate appointment. But nothing has been placed on record to indicate that Government had taken any steps with regard to giving compassionate appointment under rehabilitation assistance scheme to the bereaved family, even though the opposite party had taken timely steps by filing grievance before the authority. Despite that, the State-petitioners have rejected the

claim of the opposite party casually as if they are showing favour to the opposite party. If law envisages that benefit has to be extended to the bereaved family in accordance with OCS (RA) Rules, 1990, the same should have been done promptly by the State-petitioners. The same having not been done, this Court is of the considered view that the State-petitioners have not acted fairly and diligently to extend such benefit in terms of OCS (RA) Rules, 1990.

5. In the above view of the matter, this Court does not find any error apparent on the face of the order dated 08.04.2016 passed by the Orissa Administrative Tribunal in O.A. No. 3182 (C) of 2010, so as to cause interference with the same.

6. Accordingly, the writ petition merits no consideration and the same is hereby dismissed. The State-petitioners are directed to comply the order of the tribunal as expeditiously as possible, preferably within a period of three months.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok/Puspa