

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.18782 of 2022

Gyana Ranjan Swain

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

29.07.2022

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.** The petitioner has filed this writ petition seeking to quash the order dated 01.01.2021 passed under Annexure-8 and further seeks direction to the opposite parties to declare Odisha Civil Service (Rehabilitation Assistance) Rules, 2020 as ultra vires for the applicant/petitioner, i.e. legal heir of deceased employee who has applied for compassionate appointment under Odisha Civil Service (Rehabilitation Assistance) Rule, 1990 and prior to the new Odisha Civil Service (Rehabilitation Assistance) Rule, 2020.
- 4.** Looking to the date of death of the deceased involving whom appointment under the Rehabilitation Assistance Scheme is sought and the date of application for appointment under the Rehabilitation Assistance Scheme, this Court finds, the order of rejection vide Annexure-8 applying the provision in the 2020 Rules, which has even not seen the light of the day either on the

date of death or on the date of submission of application for appointment under the Rehabilitation Assistance Scheme, 2 remains contrary to the decision of this Court in disposal of W.P.(C) No.10168 of 2021 and W.P.(C) No.8486 of 2021 and also the judgment of the Hon'ble apex Court in the case of **Canara Bank and another Vs. M. Mahesh Kumar** with two other matters reported in (2015) 7 SCC 412. This Court, therefore, interfering with the order vide Annexure-8 sets aside the same and directs the Opposite Party No.2 to consider the case of the Petitioner for appointment under the Rehabilitation Assistance Scheme in terms of the provision at Orissa Civil Services (Rehabilitation Assistance) Rules, 1990 with the amended Rules, 2016.

5. The entire exercise shall be completed within a period of one & half months from the date of communication of authenticated/certified copy of this order by the Petitioner.

6. With the aforesaid observation and direction the writ petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat