

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.18913 of 2022

Dipak Kumar Jena

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

16.08.2022

Order No

01.

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

2. Against rejection of claim with regard to compassionate appointment vide order dated 07.12.2021 under Annexure-6, the petitioner has approached this Court by filing the present writ petition.

3. Mr. P.K. Mohapatra, learned counsel for the petitioner contended that though the father of the petitioner died on 20.10.2019 and, as such, Odisha Civil Service (Rehabilitation Assistance) Rules, 1990 was in force, but because of laches on the part of the authority, now the case of the petitioner has been considered under Odisha Civil Service (Rehabilitation Assistance) Rules, 2020, which is arbitrary, unreasonable and contrary to the provisions of law.

4. Learned State Counsel contended that since the petitioner has not satisfied the requirement under the provisions contained in Odisha Civil Service (Rehabilitation Assistance) Rules, 1990, his

case has been rejected and, as such, consideration has been made under Odisha Civil Service (Rehabilitation Assistance) Rules, 2020.

5. Having heard learned counsel for the parties and after going through the records, this Court finds that while considering the case of the petitioner, the judgment of the apex Court in the case of *State of Madhya Pradesh v. Ashish Awasthi, 2021(II) OLR (SC) 1072* has not been taken into consideration by the authority. Therefore, the order dated 07.12.2021 under Annexure-6 is liable to be quashed and is hereby quashed. The matter is remitted back to the opposite party no.2 to reconsider the case of the petitioner once again taking into consideration the judgment of the apex Court in the case of Ashish Awasthi (supra), and pass a reasoned and speaking order as expeditiously as possible, preferably within a period of three months from the date of receipt of certified copy of this order.

Issue urgent certified copy as per rules.

(Biraja Prasanna Satapathy)
Judge

Subrat