

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.20208 of 2022

Suraj Kumar Swain

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
14.10.2022**

Order No

- 02.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. Subhankar Rout on behalf of Mr. A.K. Jena, learned counsel for the Petitioner and Mr. A.P. Das, learned ASC appearing for the Opp. Parties.
3. The present writ Petition has been filed by the Petitioner challenging the direction contained in communication dtd.24.02.2022 as well as 30.04.2022, wherein he has been directed to make a fresh application of consideration of his claim for appointment under the provision of Rehabilitation Assistance Scheme in terms of the Amended Rules, 2020.
4. Learned counsel for the Petitioner submitted that the deceased employee died on 15.05.2014 and the Petitioner being the son of the deceased employee made his application for his appointment under the provision of Rehabilitation Assistance Scheme on 30.06.2015.
5. It is submitted that the said application was also processed and without taking any decision the impugned communications have been issued directing him to make a fresh application as per the

Amended Rules. It is submitted that the said action of the O.P. No. 3 is contrary to the decision of the Hon'ble Apex Court rendered in the case of *Malayananda Sethi Vs. State of Odisha* as well as a recent decision of this Court reported in *2022(II) OLR Page 735*. Accordingly, it is submitted that necessary direction be issued to consider the Petitioner's claim in terms of the provision prevalent at the time of the death of the deceased employee.

6. Mr. Das, learned ASC on the other hand submitted that in view of the amended provision the Petitioner has been rightly asked to make a fresh application and there is no illegality on the same.

7. Having heard learned counsel for the Parties and in view of the decision of the Hon'ble Apex Court as cited (supra), this Court is of the view that the Petitioner's case is to be considered in the light of the provision prevalent at the time of death. Therefore, this Court while quashing the communications under Annexure-10 series, directs the O.P. No. 3 to consider the Petitioner's claim in the light of the Judgment rendered by the Hon'ble Apex Court as well as by this Court as cited (supra) within a period of three (3) months from the date of receipt of this order.

8. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha