

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 3002 of 2009

Doctor Gouda

.....

Petitioner

*Mr. J.K. Rath, Sr. Advocate, along with
Mr. D.N. Rath, Advocate*

Vs.

Director, Elementary Education

.....

Opposite parties

Mr. S. Rath, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

20.10.2022

Order No.

02

This matter is taken up through hybrid mode.

2. Heard Mr. J.K. Rath, learned Senior Advocate appearing along with Mr. D.N. Rath, learned counsel for the petitioner and Mr. S. Jena, learned Standing Counsel for School & Mass Education Department.

3. The Petitioner has filed this Writ Petition seeking direction to the opposite parties to extend the Rehabilitation Assistance benefit in favour of the petitioner.

4. Learned counsel for the petitioner contended that the ratio of the decision of the apex court in the case of **Malaya Nanda Sethy v. State of Odisha and others**, Civil Appeal No. 4103 of 2022 arising out of S.L.P. (Civil) No. 936 of 2022 disposed of on 20.05.2022 is fully applicable to the present case. Therefore, the case of the petitioner may be considered keeping in view the principle decided in the said case.

5. Learned Standing Counsel for School and Mass Education Department contended that since the petitioner had approached the authorities with much delay, in view of the decision of the apex Court in the case of **State of Himachal Pradesh and another v. Shashi Kumar**, (2019) 3 SCC 653, the benefit of compassionate appointment cannot be extended to the petitioner. According to him, though the father of the petitioner died in the year 1980, the petitioner approached the authority in the year 1985. He further contended that such a decision has already been relied by this Court

in W.P.(C) No. 11004 of 2019 (*Jogeswar Bag v. State of Odisha and others*).

6. However, learned Senior counsel for the petitioner contended that the petitioner may be permitted to file a fresh representation before the authority concerned highlighting the grievances and direction may be given to consider the same within a stipulated time, to which learned counsel for the State has no objection.

7. As agreed to by learned counsel for the parties, however, without expressing any opinion on the merits of the case, this writ petition stands disposed of with the direction that in case the petitioner, with regard to the grievance made in this petition, files a fresh comprehensive representation before the authority concerned, within fifteen days hence, the said authority shall consider the same and pass a reasoned and speaking order keeping in view the aforementioned judgments, as expeditiously as possible, preferably within a period of three months from the date of receipt of such representation along with the certified copy of this order.

8. Issue urgent certified copy as per rules.

Arun

(DR. B.R. SARANGI, J.)

