

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAPC) No.80 of 2018

Junej Kumar Sethi

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

20.09.2022

Order No

07. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Ms. S. Mohapatra, learned counsel for the Petitioner and Mr. R.N. Mishra, learned AGA appearing for the Opp. Parties.
3. The present writ Petition has been filed with the following prayer:-

*"The applicant is liable to be directed to be RA Scheme appointee and the impugned orders are liable to be quashed. The respondents 1, 2 and 4 are liable to be directed to concur the authority of the Respondent-3 under the OCS (RA) Rule, 1990 to act as Appointing Authority of the applicant and give appointment under the concurrence of other respondents or without any interference from the other Respondents, as permissible in the law in existence."*

4. It is submitted that on the death of the Petitioner's father on 13.03.2012, who was working as a Sr. Clerk in the Office of District Agriculture Office, Betanati in the district of Mayurbhanj, the Petitioner made application for his appointment under the provision of Rehabilitation Assistance Scheme. It is submitted that on receipt of such application and on being requested, Collector,

Mayurbhanj also issued the distress certificate in favour of the Petitioner.

5. Learned counsel for the Petitioner submitted that even though everything was complied with, but O.P. No. 2 basing on the letter issued by the O.P. No. 1 on 02.02.2016, intimated the rejection of the Petitioner's claim vide the impugned communication dt.08.02.2016 under Annexure-11.

6. It is submitted that the grounds on which the claim of the Petitioner was rejected indicated in the communication dt.02.02.2016 under Annexure-10 is no more res integra in view of the decision of this Court reported in the case of *Ajit Kumar Barik Vs. State of Odisha & Ors. (2018 (II) OLR P-10)*.

7. It is submitted that in the said reported decision it has been held that "Family Members" as defined under Rules 2(b) of the OCS (R.A.) Rules, 1990 are eligible to make their application and there is no hard and fast rule that only wife/husband of the deceased Govt. employee is eligible to make such application. It is also submitted that since the Petitioner complied with all the requirements and the distress certificate was issued in his favour along with the medical certificate declaring the wife of the deceased employee is not fit for Govt. job, the claim of the Petitioner should not have been rejected on the ground that the Petitioner could not qualify in the examination of Rehabilitation Assistance appointment.

8. Mr. R.N. Mishra, learned AGA on the other hand submitted that since the wife of the deceased employee was very much available, the claim of the Petitioner being the 4<sup>th</sup> legal heir of the deceased

employee is not entertainable and accordingly no illegality has been committed by the O.P. No. 1 in rejecting the same.

9. Heard learned counsel appearing for the Parties. Perused the materials available on record. This Court after going through the same finds that the grounds on which the claim of the Petitioner has been rejected is not sustainable in view of the reported decision of this Court as cited (supra). This Court also finds that the application submitted by the Petitioner was not only entertained, but also was duly processed and recommended to the O.P. No. 1 for appropriate action.

10. In view of such steps taken in the matter, the claim of the Petitioner should not have been rejected. In any view of the matter and placing reliance on the decision of this Court as cited supra, this Court finds that the Petitioner's claim has been illegally rejected and accordingly this Court is pleased to quash the said rejection available at Annexure-10 communicated under Annexure-11. While quashing the same, this Court directs the O.P. No. 1 to take appropriate step in the matter and take a fresh decision in accordance with the Rule prevalent at the time of death of the deceased employee. Such a fresh decision shall be taken within a period of two (2) months from the date of receipt of this order with due communication to the Petitioner.

11. The writ Petition is disposed of with the aforesaid observation and directions.

**(Biraja Prasanna Satapathy)**  
**Judge**

*Sneha*