

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 3241 of 2018

Tankadhar Nag

.....

Petitioner

Mr. P.K. Mohapatra, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

23.09.2022

Order No.

01.

This matter is taken up through Hybrid Mode.

2. Heard.

3. The present Writ Petition has been filed by the Petitioner challenging the rejection of his claim for appointment under the provision of Rehabilitation Assistance Scheme vide order under Annexure-11.

4. It is submitted that the Petitioner being the son of deceased employee made his application for his appointment under the provision of Rehabilitation Assistance Scheme, but the Opposite Party No.4 rejected such claim on the ground that the wife of the deceased employee was available for such engagement and the Petitioner is not entitled as it violates Rule 2(b) read with Rule 9(7) of the OCS (RA) Rules, 1990.

5. Learned counsel for the Petitioner further submitted that the ground on which the claim of the Petitioner has been rejected was an issue before this Court in W.P.(C) No.580 of 2018 rendered in the case of *Ajit Kumar Barik vs. State of Orissa & Others*. This Court in the reported judgment in **2018(II) OLR-10** has held that in terms of the provision contained Rule-2(b), there is no stipulation that only the wife / husband of the deceased employee will make the application.

6. It is further submitted that the order passed by this Court in the aforesaid case in the case of *Ajit Kumar Barik vs. State of Orissa & Others* has been confirmed by the Hon'ble Apex Court in the meantime.

7. Learned Addl. Government Advocate on the other hand while supporting the impugned order submitted that since the wife of the deceased

employee was available at the relevant point of time, she should have made the application as the 1st legal heir.

8. In view of the submissions made and taking into account the decision relied on by learned counsel for the Petitioner, this Court finds that the ground on which the claim of the Petitioner has been rejected under Annexure-11 is not sustainable in the eye of law.

9. Accordingly, while quashing the same, this Court directs the Opposite Party No.4 to take a fresh decision on the claim of the Petitioner and while deciding the same, the rules prevalent at the time of death of the deceased employee shall be taken into consideration in view of the reported decision rendered in the case of *Malaya Nanda Sethy vrs. State of Odisha*. The entire exercise shall be completed within a period of two months from the date of receipt of this order.

10. With the aforesaid observations and directions, the Writ Petition is disposed of.

Arun

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

