

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.2755 of 2016

Pradeep Kumar Chhotray

....

Petitioner

Mr. K.K. Swain, Advocate

-versus-

State of Odisha & others

....

Opposite Parties

Mr. S. Jena,

Standing Counsel for S & ME.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

07.02.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for both the parties.
3. The case of the Petitioner in the present writ petition is that his father late Rabinarayan Chhotaray, who was working as Peon of Balunkeswar UGME School (Government School) in the district of Puri after on being appointed on 01.11.1965. While his father was continuing in service, he died in harness on 11.12.2000. Thereafter, the present Petitioner, who is the son of the deceased Government servant submitted an application under the Rehabilitation Assistance Scheme on 05.04.2001 and the same is stated to have been submitted within the statutory period prescribed under the Rehabilitation Assistance Rules.
4. It is submitted by learned counsel for the Petitioner that the mother of the Petitioner has sworn an affidavit indicating that her

younger son, namely, Biraj Basant Chhotaray is serving in Indian Army and is living separately from her family since before death of her husband and she has no connection with him since long. Such act is also evident from the statement of co-villagers stated before the R.I. that the younger brother of the Petitioner is living separately with his family. It is further submitted that the R.I. after enquiry submitted a report before the Tahasildar, Brahmagiri stating that the income of the family of the deceased as Government servant is Rs.71,240/-.

5. However, vide order dated 07.06.2016, the Collector, Puri by a cryptic order has rejected the Petitioner's claim for appointment under the Rehabilitation Assistance Scheme on the ground that the total annual income of the deceased family from all sources including family pension and T.I. is Rs.5,49,000/- and as such, the deceased family is not considered to be a distress family as defined under the rule.

6. Mr. S. Jena, learned Standing Counsel appearing for the School and Mass Education Department defended the action of the Collector, Puri by saying that the decision is passed on the report of the Tahasildar, Brahmagiri, which shows that the income of the family is Rs.5,49,000/-. Surprisingly the report of the Tahasildar basing upon which such a decision was taken has neither been filed by the Petitioner nor by the State Opposite Party.

7. Having heard learned counsel for the parties, this Court is of the considered view that the decision dated 07.06.2016 under Annexure-8 is arbitrary and not based on record. Therefore, the same is hereby set aside and the matter is now remanded back to the Collector, Puri to reconsider the matter in accordance with law and under the Rehabilitation Assistance Scheme Rule, 1990, which was

in force at the time of consideration of the claim of the Petitioner and if necessary, a further enquiry be made with regard to annual income of the deceased family. In the event it is found that the petitioner is eligible to be appointed, the petitioner be given appointment in accordance with Rehabilitation Assistance Scheme Rules within a period of three months from the date of production of a certified copy of this order.

8. With the aforesaid observation, the writ petition stands disposed of.

9. Urgent certified copy of this order be granted on proper application.

Jagabandhu

