

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.3580 of 2014

An application under Section 19 of the State Administrative Tribunal's Act, 1985.

.....

Pramodinee Mohapatra

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

For Petitioner : M/s. Mr.D.K.Pattanaik,
J.Sahoo, S.Mishra & T.
Mishra.

For Opp. Parties : M/s. N.K.Praharaj,
Standing Counsel.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

संविधिक न्यायो

Date of Hearing:10.05.2022 and Date of Order:18.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. D.K.Pattanaik, learned counsel for the Petitioner and Mr. N.K.Praharaj, learned Standing counsel for the State-Opposite Parties.
3. The present Writ Petition has been filed challenging the order dated 24.06.2014 passed by the Opposite Party No.1 under Annexure-7, wherein the claim of the Petitioner

for her appointment under the provision of Rehabilitation Assistance Scheme was rejected.

4. It is submitted that the Petitioner's husband was engaged as a DLR under the Opposite Parties on 01.05.1983 and in spite of his continuance as a DLR, no steps was taken by the Opposite Parties to absorb him in the regular establishment.

5. It is further submitted that basing on the communication issued by the Opposite Party No.2 under Annexure-1, even though the Petitioner was found eligible for being brought over to the work charged establishment vide communication dated 25.07.2011 under Annexure-3, but prior to availing the said benefit, the Petitioner's husband died on 09.11.2010. Taking into account the long continuance of her husband as a DLR w.e.f. 08.05.1983 till his death on 09.11.2010, the Petitioner moved an application for providing her appointment under the provision of RA Scheme.

6. It is submitted that when the claim raised by the Petitioner was rejected vide order dated 07.07.2011 under Annexure-5, the same was challenged before the learned Tribunal in O.A. No.3381 (C) of 2013. Since a stand was taken by the Petitioner that persons similarly placed as like one Tilottama Martha has been provided with appointment under the Rehabilitation Assistance Scheme, learned Tribunal while disposing the matter vide order dated 04.12.2013 directed the Opposite Party No.1 to consider the Petitioner's claim with the observation that the Petitioner's claim be considered as per the Government Instruction and

her claim be treated at par with the said Tilottama Martha.

7. It is submitted that without considering the said directions of the learned Tribunal in its proper perspective, the Opposite Party No.1 once again rejected the claim vide the impugned order dated 24.07.2014 under Annexure-7.

8. It is submitted that in the impugned order though the claim made by the Petitioner to treat her at par with the said Tilottama Martha was not disputed, but it was indicated that she was provided with such appointment as a special case. But in the counter filed by the Opposite Parties, a specific stand has been taken at Para-9 that the claim of the said Tilottama Martha was considered under RA Scheme and she was provided with appointment as a special case.

9. Mr. Pattnaik accordingly submitted that since persons similarly situated has been provided with appointment as a special case, the rejection of the Petitioner's claim vide the impugned order under Annexure-7 is illegal and needs interference of this Court.

10. Mr. Pattnaik in support of his aforesaid stand also relied on a decision of the learned Tribunal passed on 22.03.2018 in O.A. No.4094(C) of 2015. In the said case, learned Tribunal while dealing with the similar issue directed the State-Opposite Parties to consider the claim in terms of the provision contained under Rule-16 of the OCS (Rehabilitation Assistance) Rules, 1990.

11. It is further submitted that the order passed by the learned Tribunal in the aforementioned case was not only

confirmed by this Court but also by the Hon'ble Apex Court.

12. Mr. Praharaj, learned counsel appearing for the State- Opposite Parties on the other hand submitted that since the Petitioner's husband died prior to availing the benefit of the order under Annexure-3 and he was never brought over to the work charged establishment, her claim has been rightly rejected vide the impugned order. But Mr. Praharaj failed to satisfy this Court with regard to the consideration of the claim and appointment issued in favour of the said Tilottama Martha as a special case.

13. Heard learned counsel for the Parties.

14. Perused the materials available on record and the decision relied on by Mr. Pattnaik. After going through the same, this Court finds that the Opposite Party No.1 while rejecting the claim vide the impugned order dated 24.07.2014 under Annexure-7 has not considered the direction of the learned Tribunal passed in O.A. No.3381(C) of 2013 in its proper perspective.

15. Since person similarly placed as like the Petitioner has been provided with appointment as a special case, this Court finds that the claim of the Petitioner has not been considered rightly by the said Opposite Party No.1. Accordingly, while interfering with the same and by quashing the order dated 24.07.2014 under Annexure-7, this Court directs the Opposite Party No.1 to take a fresh decision on the claim of the Petitioner pari materia with the claim considered in case of the said Tilottama Martha. This

Court accordingly directs the Opposite Party No.1 to take a fresh decision on the claim of the Petitioner within a period of three months from the date of receipt of this order and take consequential action within the said period also.

13. With the aforesaid observations and directions, the WPC(OAC) stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 18th of May, 2022/Subrat

