

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.4652 of 2015

Sasmita Jena

....

Petitioner

-versus-

State of Odisha & Anr.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

18.07.2022

Order No

02.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. J.K. Lenka, learned counsel for the Petitioner and Mr. M.K. Balabantaray, learned Standing Counsel appearing for the Opp. Parties.

3. The present writ Petition has been filed by the Petitioner challenging the rejection of her claim for appointment under the provision of Rehabilitation Assistance Scheme vide Order dtd.19.11.2015 under Annexure-8.

4. It is submitted that the Petitioner even though the married daughter of the deceased employee, but relying on the separation deed executed on 04.07.2014, she made the application for such appointment.

5. It is submitted that the concerned authority without considering the matter in its proper perspective and relying on the provision of

Rule 2(b) of the OCS (RA) Rules, 1990 rejected the claim vide the impugned order under Annexure-8. It is also submitted that the said rejection of the Petitioner's claim is not just and proper as the Petitioner in view of the separation deed annexed under Annexure-5 is coming within the definition of family so provided under the Rule 2(b) of the Rules. Mr. Lenka also relied on a decision of this Court decided on 05.07.2017 in W.P.(C) No. 9039 of 2016.

7. Mr. Balabantaray, learned Standing Counsel on the other hand submitted that since the Petitioner is the married daughter of the deceased Govt. employee, she is not included within the definition of family as provided under the aforesaid Rule 2(b) of the Rules. It is also submitted that since the Petitioner has not filed any document showing a decree of divorce, she cannot be treated as a member of the deceased family. Making such submission Mr. Balabantaray submitted that the impugned order has rightly been passed.

8. Heard learned counsel for the Parties. Perused the materials available on record. This Court after going through the same finds that even though the Petitioner has filed a separation deed under Annexure-5, but the said document is not admissible unless and until a decree of divorce is obtained from the competent Court of law.

9. This Court is of the view that unless a decree of divorce is obtained, the status of the Petitioner will remain as the married daughter of the deceased Govt. employee and accordingly, she cannot be treated as a member of the deceased family.

10. In view of that this Court finds no illegality or irregularity in the impugned order passed under Annexure-8. Not only that the claim of the Petitioner is also not covered as per the decision relied on by the learned counsel for the Petitioner. Rule 2(b) of the Rules is very clear and married daughter does not come within the purview of the said Rule.

11. Hence, in any view of the matter, this Court finds no illegality or irregularity in the impugned order and accordingly, this Court is not inclined to interfere with the same and dismiss the writ application.

(Biraja Prasanna Satapathy)
Judge

Sneha

