

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 3539 of 2011

Dharmendra Nath Ratha

.....

Petitioner

Mr. N.C. Das, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

14.10.2022

Order No.

02.

This matter is taken up through hybrid mode.

2. Heard Mr. N.C. Das, learned counsel for the petitioner and Mr. S. Rath, learned Additional Standing Counsel appearing for the State-Opposite Parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 08.03.2011 under Annexure-1 and the order dated 04.07.2011 under Annexure-2, by which the claim of the petitioner for compassionate appointment has been rejected at the Government level due to the reason that un-registered separation deed cannot be taken into consideration for the purpose of providing employment under R.A. scheme to any of the family members of the deceased government employee.

4. Mr. N.C. Das, learned counsel for the petitioner contended that the government vide letter dated 28.10.1993 in Annexure-12 issued circular that major sons who have separated or are partitioned from the family through either a partition deed or a family agreement, may be excluded from the definition of “family members” while considering the case for extending rehabilitation assistance under the scheme. Since there is no registered partitioned deed is available, the petitioner may be

permitted to provide the family agreement before the authority and direction may be given to the authority to consider the same in accordance with law.

5. Mr. S. Rath, learned Additional Standing Counsel appearing for the State Opposite Parties contended that rehabilitation appointment to the family of the deceased is to be considered on scrutiny of the terms and conditions provided under OCS (RA) Rules, 1990. So far as the case of the petitioner is concerned, his case was forwarded to opposite party no.1 and on the enquiry report of opposite party no.3, it was found that one Ashok Kumar Rath, the eldest son of the deceased was working in Class-IV post at Tahasil Office, Bargarh. He is married and was separated through a family settlement deed dated 10.06.2004. But the same has been rejected vide letter dated 08.03.2011 and 04.07.2011 due to the reason that un-registered separation deed cannot be taken into consideration.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that for calculation of family income of deceased family under rehabilitation scheme, Government in its wisdom decided that major sons, who have separated or are partitioned from the family through either a partition deed or a family agreement, may be excluded from the definition of 'family members'. As it appears, in the present case the elder son has already been separated through a partitioned deed or family agreement. Therefore, the claim of the petitioner should not have been rejected by the authority, rather the case of the petitioner would have been considered taking into consideration the family agreement, in view of the circular by the

Government on 28.10.1993 under Annexure-12.

7. In the above view of the matter, this writ petition stands disposed of permitting the petitioner to file the partitioned deed or family agreement before the authority for consideration of his case for rehabilitation appointment, so that the authority shall consider the same and pass appropriate order in accordance with law.

8. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Ashok

