

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No.243 of 2019

Sangram Keshari Singh

Petitioner

-versus-

State of Odisha & Others

Opp. Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

Order No

ORDER
28.09.2022

1. This matter is taken up through Hybrid Mode.
2. Heard Ms. R.K. Sahoo, learned counsel for the Petitioner and Mr. Satapathy, learned Standing Counsel.
3. The petitioner is aggrieved by the communication issued by the D.E.O, Kandhamal-Opp. Party No.3 on 5.10.2018 under Annexure-12. It is submitted that after the death of the petitioner's father on 29.9.2010, the petitioner made his application for appointment under the provisions of R.A Scheme within time and in spite of the receipt of the Distress Certificate under Annexure-8, when the matter was kept pending, the petitioner approached the learned Tribunal in O.A. No.1834 of 2018. It is submitted that the learned Tribunal vide its order under Annexure-11 remitted the matter to Opp. Party No. 2 & 3 to take a decision on the petitioner's claim.

4. Ms. Sahoo, submitted that in spite of clear eligibility to get the benefit of the Scheme, the impugned order was Passed by indicating that the petitioner's case will be considered as per the instruction issued in OCS(Amendment) Rules, 2016 after due evaluation by the Scrutiny Committee. It is submitted that since the petitioner's father died in the year 2010 and the Distress Certificate was received vide letter dated 11.9.2015, the action of the opp. parties in holding that the case of the petitioner will be considered as per the amended provisions of 2016 is illegal. It is also submitted that in spite of availability of vacancy, the petitioner was not provided with the appointment and till date the petitioner is going without any favourable order in that regard.

5. Mr. Satapathy, learned Standing Counsel on the other hand submitted that the matter has been referred to the Director Secondary Education, Odisha Bhubaneswar, and after receipt of necessary instruction and subject to availability of vacancy, the case of the petitioner will be considered.

6. Heard learned counsel for the parties,.

7. This Court after going through the materials available on record finds that the petitioner's father died in the year 2010 and he made his application within the stipulated time. It is also found that the Collector, Kandhamal after due verification issued the Distress Certificate vide his letter dated 11.9.2015

under Annexure-8. Therefore, this Court is of the view that the claim of the petitioner should have been considered immediately and the reason assigned in the impugned order that his claim will be considered as per the amended Rules, 2016 is not just and proper.

8. In that view of the matter and taking into account the recent decision of the Hon'ble Apex Court rendered in the case of State of Odisha & Others Vs. Malayananda Sethi, this Court while disposing the writ petition directs opp. party no.3 to take appropriate steps in the matter in accordance with the rule prevalent at the time of death of the Govt. employee and provide appointment to the petitioner, if he is found otherwise eligible. The entire exercise shall be completed within a period of two months from the date of receipt of this order. Petitioner is directed to produce a copy of the order before Opp. party No.3 within a period of 7(Seven) days from the date of receipt of this order.

9. With the aforesaid observation, the writ petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

sangita