

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.254 of 2019

Sasmita Pradhan

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
13.10.2022**

Order No

01.

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

2. Heard Mr. L.K. Mohanty, learned counsel for the Petitioner and Mr. A.P. Das, learned Additional Standing Counsel appearing for the State-Opp. Parties.

3. The present writ Petition has been filed with the following prayer:-

“In view of the facts mentioned in Paragraph-6 above, the applicant prays for the following reliefs:

- i) The Original Application be allowed;*
- ii) The order of rejection dt.8.11.2013 under Annexure-7 be quashed;*
- iii) The Respondents be directed to consider the case of the Applicant for appointment under R.A. Scheme, 1990 taking into consideration of qualification of the Applicant, within a date to be fixed by this Hon’ble Tribunal.*
- iv) Such other order/orders be passed granting complete relief to the applicant.”*

4. It is submitted that on the death of the Petitioner's father on 13.12.2006, who was working as a Vital Statistical Clerk in the office of the C.D.M.O., Nayagarh, since the Petitioner was minor by that time, on attaining age of 18 years she made his application for her appointment under the provision of Rehabilitation Assistance Scheme on 17.02.2009. It is submitted that on receipt of such application and on being requested, Collector, Nayagarh also issued the distress certificate in favour of the Petitioner.

5. It is submitted that on receipt of such distress certificate from the Collector, O.P. No.2 vide his letter dtd.17.03.2012 forwarded the application of the Petitioner to O.P. No. 1 for taking further action in the matter.

6. Learned counsel for the Petitioner submitted that even though everything was complied with, but O.P. No. 1 vide his letter dtd.08.11.2013 under Annexure-7 rejected the claim of the Petitioner on the plea that the Petitioner being the third legal heir of the deceased employee.

7. It is also submitted that the grounds on which the claim of the Petitioner was rejected and reflected in Annexure-7 so far as it relates to the Petitioner is no more res integra in view of the decision of this Court reported in the case of ***Ajit Kumar Barik Vs. State of Odisha & Ors. (2018 (II) OLR P-10).***

8. It is submitted that in the said reported decision it has been held that "Family Members" as defined under Rules 2(b) of the OCS (R.A.) Rules, 1990 are eligible to make their application and there is no hard and first rule that only wife/husband of the deceased Govt. employee is eligible to make such application. It is also submitted that since the Petitioner complied with all the

requirements and the distress certificate was issued in his favour along with the medical certificate declaring the wife of the deceased employee is not fit for Govt. job, the claim of the Petitioner should not have been rejected on the ground indicated in the impugned communication at Annexure-7.

9. Mr. A.P. Das, learned ASC on the other hand submitted that since the wife of the deceased employee was very much available, the claim of the Petitioner being the 3rd legal heir of the deceased employee is not entertainable and accordingly no illegality has been committed by the O.P. No. 1 in rejecting the same.

10. Heard learned counsel appearing for the Parties. Perused the materials available on record. This Court after going through the same finds that the grounds on which the claim of the Petitioner has been rejected is not sustainable in view of the reported decision of this Court as cited (supra). This Court also finds that the application submitted by the Petitioner was not only entertained, but also was duly processed and recommended to the O.P. No. 1 for appropriate action.

11. In view of such steps taken in the matter, the claim of the Petitioner should not have been rejected. In any view of the matter, this Court finds that the Petitioner's claim has been illegally rejected and accordingly this Court is pleased to quash the said rejection order available at Annexure-7. While quashing the same, this Court directs the O.P. No. 1 to take appropriate step in the matter and take a fresh decision in accordance with the Rule prevalent at the time of death of the deceased employee. Such a fresh decision shall be taken within a period of two (2) months from the date of receipt of this order.

11. The writ Petition is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Sneha

