

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OAPC) No.157 of 2019

Ashutosh Behera

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

10.10.2022

Order No

- 1.** This matter is taken up through Hybrid Mode.
- 2.** The Petitioner challenged order dtd. 08.04.2016 issued by the Dy. Secretary Government of Odisha in Department of Water Resources rejecting the proposal to consider appointment under the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990 (in short, "RA Rules").
- 3.** The father of the Petitioner, Late Anirudha Behera, while working as Junior Engineer in the Office of the Engineer-in-Chief, Water Resources Division-Opp. Party No.3, died on 19.9.2007. The spouse of the deceased employee being unfit for taking up any job, the Petitioner applied for consideration of appointment under the RA Rules on 26.4.2013. Prior to such application by the petitioner, the daughter of the deceased employee made an application in the year 2008 which was rejected in the year 2012. The Petitioner has stated to have furnished copies of distress certificate, legal heir certificate, death certificate, residential and caste certificates and certificate showing educational qualifications, etc. Mr. A. S. Mohanty, Advocate for the Petitioner submitted that the Opposite Party No.1 has rejected the application on flimsy ground, i.e. "Cases in

which medical certificates declaring the spouses medically unfit for Government job has been issued much after submission of application”. Therefore, he prayed to quash the decision of the Government contained in Letter No.8553-III-Policy-0001/2015/WR, dated 08.04.2016 as communicated in Letter No.12165-WR-FE-III-RAS-0025-2016/WR, dated 25.05.2016 [Annexure-11].

4. Mr. A.Das, learned Standing Counsel appearing on behalf of Opposite Parties submitted that the reason ascribing which the application for appointment under RA Rules has been rejected by the authority concerned appears to be justified and plausible.

5. Mr. A.S. Mohanty has relied on a coordinate Bench decision rendered in the case of **Sukanta Kumar Bishoi vs. State of Odisha and others** in W.P.(C) (OAC) No.1121 of 2017 and submitted that the fact-situation obtained in the present case is identical to the case referred to. It is, therefore, argued by Mr. Mohanty that the rejection of application for appointment under the RA Rules, 1990 submitted by the son of the deceased was not approved by this Court and the matter was remitted to the authority concerned for reconsideration. This Court finds that whereas in the reported case cited supra the wife of the deceased employee was found unfit for employment due to defect in her eye, in the instant case, the elder brother is found to be unfit for employment and the mother has predeceased the father.

6. Taking into consideration the submissions of both the counsels, the material placed on record, the judgment cited above and the definition of “family members” contained in Rule-2(b) of the RA Rules, this Court is of the considered view that the

rejection of application for appointment under RA Rules, 1990 is not tenable. Hence, the decision of the Government vide Letter No. No.8553-III-Policy-0001/2015/WR, dated 08.04.2016 as communicated in Letter No.12165-WR-FE-III-RAS-0025-2016/WR, dated 25.05.2016 [Annexure-11] is quashed and the matter is remitted to the authority concerned for reconsideration of the case of the Petitioner for appointment on compassionate ground as per the provisions contained in the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990 as expeditiously as possible.

7. With the above observation and direction, the Writ Petition is disposed of.

Issue urgent certified copy as per rules.

(Biraja Prasanna Satapathy)
Judge

Subrat