

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.32390 of 2022

Rabinarayan Mishra

....

Petitioner

Mr. C. Pattnaik, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. T.K. Pattnaik, ASC

**CORAM:
JUSTICE A.K. MOHAPATRA**

**ORDER
01.12.2022**

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard the learned counsel for the Petitioner as well as learned Additional Standing Counsel appearing for the State-Opposite Parties. Perused the writ petition and the documents annexed to the same.
3. The present writ petition has been filed by the Petitioner with a prayer to the Opposite Parties to consider the case of the Petitioner for appointment under the OCS(RA) Rules, 1990 within a stipulated period of time.
4. It is submitted by the learned counsel for the Petitioner that the father of the Petitioner died in harness on 24.1.1981. Therefore, the Petitioner seeks appointment on compassionate ground under the Orissa Civil Service (Rehabilitation Assistance) Rules, 1990.

Accordingly, he has approached this Court by filing the present writ petition. It is further submitted that earlier the Petitioner had approached the State Administrative Tribunal, Cuttack Bench, Cuttack by filing O.A. No.1560(C) of 1998 which was disposed of by the Tribunal vide its order dated 21.02.2011 with a direction to the respondent No.2 therein to dispose of the representation of the Petitioner within two months from the date of filing of such representation. Thereafter, the Petitioner approached the authority. However, his case has not been considered and the same has been rejected.

5. Learned counsel for the Petitioner, referring to letter dated 30.04.2011 under Annexure-6, submits that although he had approached the Assistant Settlement Officer, Baripada with a prayer to appoint him under the Rehabilitation Assistant Scheme, but his prayer has not been acceded to and he was advised to approach the Settlement Officer, Baripada, who is the competent authority. As such, the Petitioner again made representation before the Settlement Officer, Baripada, but his claim has been rejected vide order dated 25.06.2019 under Annexure-7.

6. Learned counsel for the State, on the other hand, submits that the father of the Petitioner has expired on 24.1.1981 in harness,

which is admitted by the Petitioner. He further submits that the RAS came to force with effect from 09.09.1982, i.e., after the death of the father of the Petitioner. Therefore, he is not eligible to be considered under the said scheme. He further submits that Orissa Civil Service (Rehabilitation Assistance) Rules, 1990, came much after the death of the father of the Petitioner. As such, the Petitioner is not covered under the Orissa Civil Service (Rehabilitation Assistance) Rules, 1990. Therefore, the learned counsel for the Petitioner justifies and supports the decision taken by the authorities vide order dated 25.06.2019 under Annexure-7.

7. Having heard the rival contentions of the learned counsel for the parties, this Court is of the view that no doubt the father of the Petitioner died in harness on 24.01.1981, however, at the relevant point of time, there was no rehabilitation assistance scheme or rules in force under which the Petitioner could have claimed for appointment. Accordingly, the authorities have rightly rejected the claim of the Petitioner under the scheme and rules. Therefore, this Court is not inclined to interfere with the impugned order. However, it is open for the Petitioner to make a fresh representation, in such event, the authorities are directed to consider the case of the Petitioner on its own merit and the decision on such representation be

taken within three months from the date of filing such representation.

It is made clear that the aforesaid direction is given without expressing any opinion on the merit of the case. The authorities are directed to take decision independently.

8. With the aforesaid observation and direction, this writ petition stands disposed of.

(A.K. Mohapatra)
Judge

Debasis

