

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33084 of 2022

Sri Ghanashyam Samad

....

Petitioner

Mr. Manas Pati, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Arnav Behera, ASC

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

07.12.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the State. Perused the writ petition and documents annexed thereto.
3. The present writ petition has been filed by the Petitioner with a prayer to quash the order dated 23.03.2012 passed by the Under Secretary to Government of Odisha, Department of Steel & Mines under Annexure-6 to the writ petition and to direct the Opposite parties to give him appointment under the OCS (R.A.) Rules, 1990 within a stipulated period of time with all consequential service and financial benefits by considering representation under Annexure-7 series.
4. It is submitted by learned counsel for the Petitioner that the father of the Petitioner, Late Dibru Samad, who was working as Check Gate Clerk under Deputy Director of Mines, Joda in the district of Keonjhar, died on 19.06.2006 in harness. Thereafter, the Petitioner has submitted an application for appointment under the Rehabilitation Assistance Scheme. It is further submitted by learned counsel for the Petitioner that the application of the Petitioner has been rejected under Rule-2(b) of

OCS (R.A.) Rules, 1990 as he is the second son and third preferential legal heir by the impugned order dated 23.03.2012 under Annexure-6. It is further submitted that there is no restriction to provide appointment under Rehabilitation Assistance Rules, 1990 to any of the family members requiring simply a no objection from the other legal heirs. In this context, learned counsel for the Petitioner relies upon the judgment rendered by this Court in W.P.(C) No.6271 of 2021 wherein similar issue has already been settled. Relying the aforesaid decision, learned counsel for the Petitioner submits that the application of the Petitioner under Annexure-7 Series needs to be considered in the light of the judgment rendered by this Court.

5. Learned counsel for the State, on the other hand, submits that since the Petitioner has not obtained no objection from the other legal heirs, the authority has rightly rejected his application.

6. Considering the submissions made by the respective parties, this Court disposes of the writ application at the stage of admission by setting aside the impugned order dated 23.03.2012 under Annexure-6 and further remand the matter back to the Opposite Party No.2 to consider the application of the Petitioner under Annexure-7 Series in the light of the law laid down by the Hon'ble Supreme Court in the case of *Malaya Nanda Sethy vrs. State of Orissa and others*, reported in **2022(II) OLR(SC)-1** and the Petitioner is directed to approach to the Opposite Party No.2 along with certified copy of this order within a period of two weeks from today. On appearance of the Petitioner, Opposite Party No.2 shall do well to consider the representation of the Petitioner and dispose of the same by passing a speaking and reasoned order in accordance with law within a period of three months. Any decision so taken on the same shall be communicated to the Petitioner within a period of ten days thereafter.

7. With the aforesaid observation/direction, the writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge

Debasis

